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Board of Appeals

January 07, 2004 (No Meeting)

PUBLIC NOTICE

The Board of Appeals has not scheduled meetings for Dec. 24, 2003, Dec. 31, 2003 or Jan. 7, 2004. The next regular meeting is scheduled for **Wednesday, Jan. 14th, 2004, City Hall**, Room **416, 5:00 p.m.,** One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any other appeal matter.

FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

Date Posted: Dec. 18th, 2003

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, JANUARY 14, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) **SPECIAL ITEMS**: Presentation by Planning Department staff regarding revisions to the Residential Design Guidelines.

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(4) ADDENDUM ITEMS:

(4A) **REHEARING REQUEST:** Appeal No(s). 02-030,
50 – 8th Street
Foster Media vs. Zoning Administrator

Letter from Christopher Moscone, agent for Foster Media, Appellant, requesting rehearing of Appeal No(s). 02-030, decided June 19, 2002. Upon motion by Vice President McInerney, the Board voted 2-3 (Commissioners Cullum, Saunders & El Qadah dissented) to uphold the subject determination. Four votes being necessary to overturn any departmental action under Charter § 4.106, the subject determination was upheld. Determination: that the subject Building Permit Application for a general advertising sign is disapproved because the subject property is visible from, and located within 200 feet of the Market Street Special Sign District.

(4B) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 239 Greenwich St
Permit issued on Oct. 6, 2003
Last day to appeal was Oct. 21, 2003
Jurisdiction request received on Dec. 3, 2003

Letter from John Cowen, asking that the Board take jurisdiction over Building Permit Application No(s). 2003/10/06/6615. Project: on single family house, stair way, 4' wide, not more than 30" above grade, on deeded and recorded easement. Permit Holder(s): Terrance Forgette.

(4C) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 945 Darien Way
Request to suspend permit dated Oct. 1, 2003
Last day to appeal was Oct. 16, 2003
Jurisdiction request received on Dec. 8, 2003

Letter from Nina Guralnik, requestor(s), asking that the Board take jurisdiction over a request by the Acting Zoning Administrator to suspend Building Permit Application No(s). 2003/08/05/1215. Reason(s) for requesting suspension: subject permit was approved erroneously over-the-counter by the Planning Department, and a subsequent review of the architectural plans revealed that this permit was taken out to construct an illegal guesthouse in the existing garage space, rather than to repair fire damage as stated on the permit application.

(4D) **ADOPTION OF FINDINGS:**

3632-3638 Sacramento Street
Appeal No(s). 03-122
Bulkley vs. DBI, Planning Dept. Disapproval

Proposed findings submitted by appellant Honor Bulkley. For discussion and adoption. **Note:** On Dec. 3, 2003, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the denial, and grant the permit with adoption of findings on Dec. 17, 2003. Project: on two-story office/residential building in the Sacramento Street Neighborhood Commercial Zoning District: level two has apparently been used for offices since 1976; the purpose of this application is to legalize present use; no construction is proposed. Property Owner(s): Honor Bulkley.

(4E) **REHEARING REQUEST:**

660-662 – 28th Street
Appeal No(s). 03-181/182
Meister vs. DBI, PDA

Letter from Geraldine & Richard Meister, appellant(s), requesting rehearing of Appeal No(s). 03-181/182, decided Dec. 17, 2003. At that time, upon motion by President Chin, the Board voted 5-0 to uphold the permit on condition that the deck railings be open and that white reflective paint be used on walls opposite neighbors' bedrooms.

(5) **CONSENT ITEMS (TAXI COMMISSION REVOCATION):** With the consent of the Taxi Commission, the Board will proceed to a vote without testimony to overrule the revocation of the subject permit(s) with the condition that the appellants pay all appropriate permit fees and/or penalties. Without consent the Board will take testimony and then decide the appeal.

(5A) **APPEAL NO. 03-188**

GHASSEN MOSBAHI, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on October 2, 2003, of a Driver of Public Passenger Vehicle for Hire Permit due to non-payment of fees. PERMIT NO. 055648. JURISDICTION GRANTED NOV. 12, 2003. FOR HEARING TODAY.

(6) **APPEAL NO. 03-186**

FRIENDS OF GOLDEN GATEWAY, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	8 Washington Street (Golden Gateway Planned Unit Development). Appealing a determination dated October 22, 2003, addressed to David Burnett, that although the Planning Department reviews projects within expired Redevelopment project areas as Planned Unit Developments (PUD's), the department does not and has never treated entire project areas as a single PUD, and thus a development application for improvements to the subject property (Block 0201) may be filed and reviewed independently as a stand-alone project, which does not require conditional use (CU) authorization for modification of the Golden Gateway Center PUD. FOR HEARING TODAY.

ITEMS (7A) & (7B) SHALL BE HEARD TOGETHER:

(7A) **APPEAL NO. 03-051**

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing the determination dated March 19, 2003, addressed to Andrew Zacks, that the subject property has a legal authorized use of 14 residential guest rooms and 1 dwelling unit, that residential guest rooms constitute "group housing" under § 209.2 of the Planning Code, that this group housing constitutes a permitted conditional use since it was established prior to the enactment of Conditional Use (CU) requirements for said use, and that this permitted conditional use shall be considered abandoned 3 years from the last legal date of residency of the last resident of said guest rooms. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

(7B) **APPEAL NO. 03-066**

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing a determination dated April 24, 2003, addressed to Andrew Zacks, that the proposed physical modifications to various residential guest rooms at the subject property would result in less viable guest rooms and would constitute a partial conversion of the structure to single family-use from its current legal authorized use of 14 residential guest rooms and 1 dwelling unit, in violation of Planning Code. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

(8) **APPEAL NO. 03-153**

MICHAEL McCREADY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	355 Country Club Drive. Protesting the issuance on September 18, 2003, to Karen Wong, Site Permit to Alter a Building (on single-family house: 2nd floor addition). APPLICATION NO. 2001/08/21/6532S. PUBLIC HEARING HELD DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

(9) APPEAL NO. 03-117

GEORGE HAMILTON HAUCK & DUANE FRISBIE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	218 Union Street. Protesting the issuance on July 15, 2003, to John Votruba, Permit to Alter a Building (on 3-story, 7-unit residential building: rebuild upper deck on roof – see NOV No(s). 200336693; new roof ladder). APPLICATION NO. 2003/07/15/9492. FOR HEARING TODAY.

(10) APPEAL NO. 03-140

MR. & MRS. WILLIAM WEINDORF, MR. & MRS. ALEX SCHWARTZ, MARY ROBINETTE, & SUSAN O'BRIEN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	450 Hamilton Street. Protesting the issuance on August 26, 2003, to Abel Maldonado, Site Permit to Alter a Building (on single-family house: horizontal extension to rear of lot for increased size of master bedroom and bath at 2nd floor, and additional bedrooms at lower level). APPLICATION NO. 2002/02/05/8561S. FOR HEARING TODAY.

(11) APPEAL NO. 03-141

AUDREY CARLSON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2368 Vallejo Street. Protesting the issuance on August 28, 2003, to Gina Best, Permit to Alter a Building (on 2-unit building: new stucco façade to replace wood shingles; 3-story rear addition; remodel 2nd unit; remodel kitchen of 1st unit; remodel street entry of 2nd unit). APPLICATION NO. 2002/01/04/6319S. FOR HEARING TODAY.

(12) **APPEAL NO. 03-184**

CHARLES & NEL ELWEIN, and TEVIS & LYNNE MARTIN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2831 – 2833 Washington Street. Protesting the issuance on October 21, 2003, to Thomas McCarville, Permit to Alter a Building (on two-family residential building: switch location of two bedrooms; move family room from first to second floor; connect spaces with stairs; expand deck; revisions to Building Permit Application No(s). 2002/07/23/2137). APPLICATION NO. 2003/08/06/1398. FOR HEARING TODAY.

(13) **APPEAL NO. 03-185**

ARYE MICHAEL BENDER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	3334 Folsom Street. Protesting the issuance on October 21, 2003, to John Woolsey-McKernnon (new owner Tim Albinson), Permit to Alter a Building (on single-family house: removal of stove and refrigerator in basement apartment). APPLICATION NO. 2003/10/21/8076. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

> 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: January 7, 2004

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
KATHLEEN HARRINGTON	VICE PRESIDENT
SABRINA N. SAUNDERS	COMMISSIONER
DOUGLAS SHOEMAKER	COMMISSIONER
HISASHI B. SUGAYA	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents:

1. Appellant's Preliminary Statement of Appeal and Brief.
2. Respondent's or Permit holder's Response Brief.
3. Appellant's Reply.
4. Department decision, order, permit, determination, resolution, or Notice of Violation.
5. Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JANUARY 14, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Kathleen Harrington, Commissioner Douglas Shoemaker, Commissioner Hisashi Sugaya, and Commissioner Sabrina Saunders.

Catharine Barnes, Deputy City Attorney (DCA); Craig Nikitas for the Planning Department (PD); Leo McFadden, Senior Building Inspector, Dept. of Building Inspection (SBI DBI); Executive Secretary Robert Feldman, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) **PUBLIC COMMENT:**

> At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: Jeremy Paul explained his view on the procedure for review of plan revisions imposed by the Board.

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: None.

(3) **SPECIAL ITEMS:** Presentation by Planning Department staff regarding revisions to the Residential Design Guidelines.

ACTION: Rescheduled to February 4, 2004 without a recorded vote.

SPEAKERS: None.

(4) **ADDENDUM ITEMS:**

(4A) **REHEARING REQUEST:** Appeal No(s). 02-030,
50 – 8th Street
Foster Media vs. Zoning Administrator

Letter from Christopher Moscone, agent for Foster Media, Appellant, requesting rehearing of Appeal No(s). 02-030, decided June 19, 2002. Upon motion by Vice President McInerney, the Board voted 2-3 (Commissioners Cullum, Saunders & El Qadah dissented) to uphold the subject determination. Four votes being necessary to overturn any departmental action under Charter § 4.106, the subject determination was upheld. Determination: that the subject Building Permit Application for a general advertising sign is disapproved because the subject property is visible from, and located within 200 feet of the Market Street Special Sign District.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the matter to February 25, 2004.

SPEAKERS: None.

(4B) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:** Subject property at 239 Greenwich St
Permit issued on Oct. 6, 2003
Last day to appeal was Oct. 21, 2003
Jurisdiction request received on Dec. 3, 2003

Letter from John Cowen, asking that the Board take jurisdiction over Building Permit Application No(s). 2003/10/06/6615. Project: on single family house, stair way, 4' wide, not more than 30" above grade, on deeded and recorded easement. Permit Holder(s): Terrance Forgette.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the matter to February 25, 2004 at the written request of the parties.

SPEAKERS: None.

(4C) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:** Subject property at 945 Darien Way
Request to suspend permit dated Oct. 1, 2003
Last day to appeal was Oct. 16, 2003
Jurisdiction request received on Dec. 8, 2003

Letter from Nina Guralnik, requestor(s), asking that the Board take jurisdiction over a request by the Acting Zoning Administrator to suspend Building Permit Application No(s). 2003/08/05/1215. Reason(s) for requesting suspension: subject permit was approved erroneously over-the-counter by the Planning Department, and a subsequent review of the architectural plans revealed that this permit was taken out to construct an illegal guesthouse in the existing garage space, rather than to repair fire damage as stated on the permit application.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the matter to March 10, 2004 at the written request of the parties.

SPEAKERS: None.

(4D) **ADOPTION OF FINDINGS:**

3632-3638 Sacramento Street
Appeal No(s). 03-122
Bulkley vs. DBI, Planning Dept. Disapproval

Proposed findings submitted by appellant Honor Bulkley. For discussion and adoption. **Note:** On Dec. 3, 2003, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the denial, and grant the permit with adoption of findings on Dec. 17, 2003. Project: on two-story office/residential building in the Sacramento Street Neighborhood Commercial Zoning District: level two has apparently been used for offices since 1976; the purpose of this application is to legalize present use; no construction is proposed. Property Owner(s): Honor Bulkley.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the matter to February 4, 2004 at the written request of the parties.

SPEAKERS: None.

(4E) **REHEARING REQUEST:**

660-662 – 28th Street
Appeal No(s). 03-181/182
Meister vs. DBI, PDA

Letter from Geraldine & Richard Meister, appellant(s), requesting rehearing of Appeal No(s). 03-181/182, decided Dec. 17, 2003. At that time, upon motion by President Chin, the Board voted 5-0 to uphold the permit on condition that the deck railings be open and that white reflective paint be used on walls opposite neighbors' bedrooms.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to deny the rehearing request.

SPEAKERS: Dick Meister, co-appellant, explained why a rehearing request was justified. Gerry Meister, co-appellant, also elaborated as to why a rehearing request should be granted. Jeremy Paul, agent for permit holder, urged the Board to deny the rehearing request for lack of new evidence.

(5) **CONSENT ITEMS (TAXI COMMISSION REVOCATION):** With the consent of the Taxi Commission, the Board will proceed to a vote without testimony to overrule the revocation of the subject permit(s) with the condition that the appellants pay all appropriate permit fees and/or penalties. Without consent the Board will take testimony and then decide the appeal.

(5A) APPEAL NO. 03-188

GHASSEN MOSBAHI, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on October 2, 2003, of a Driver of Public Passenger Vehicle for Hire Permit due to non-payment of fees. PERMIT NO. 055648. JURISDICTION GRANTED NOV. 12, 2003. FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the revocation on condition that the appellant pay the permit fee and penalty, and complete the Police Dept. Taxi Detail's driver training course.

SPEAKERS: None.

(6) APPEAL NO. 03-186

FRIENDS OF GOLDEN GATEWAY, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	8 Washington Street (Golden Gateway Planned Unit Development). Appealing a determination dated October 22, 2003, addressed to David Burnett, that although the Planning Department reviews projects within expired Redevelopment project areas as Planned Unit Developments (PUD's), the department does not and has never treated entire project areas as a single PUD, and thus a development application for improvements to the subject property (Block 0201) may be filed and reviewed independently as a stand-alone project, which does not require conditional use (CU) authorization for modification of the Golden Gateway Center PUD. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 2-3 (President Chin, Vice President Harrington, and Commissioner Saunders dissented) to overrule the subject determination. Four votes being required to overturn a departmental action, the motion failed, and the determination was upheld.

SPEAKERS: Craig Nikitas, PD, explained the determination. Allen Brotsky, attorney for appellant, summarized the history of the Golden Gateway Redevelopment Project and why new CU is necessary to allow modification of conditions to allow removal of recreation facilities and construction of a new building on site. Pamela Duffy, attorney for project sponsor, briefly described the proposed project and defended the ZA determination. Public comment for appellant: Eula Walters said she has lived in the area since it was built, and urged the Board to overrule the ZA. Edward Helfeld, former director of Redevelopment Agency, described the history of this former redevelopment area and said the determination flies in the face of history, and said the recreation facilities are needed to relieve the stress of urban life. Ernestine Weiss said that Perini, the original developer, had purchased the site for half the price for the purpose of building recreation facilities for the benefit of residents and these facilities are still needed. Renee Richards said her son takes lessons at the tennis club. Nan McGuere asid she lives on Russian Hill and supports the appeal, as does Mr. Passmore who is not present. Chris Biotti said that 1400 people have signed the petition in support of the appeal, and that this downtown open space needs to be preserved for the condo occupants. Sueanne McNeil said there is a health club in her building on Davis Street and that this district has the least open space of any in the City. Jim Miller explained why a new CU is necessary to modify the original conditions of approval for the PUD. Don Gieb explained the cost of the subject land. Public comment for the ZA: Kate White speaking for housing advocacy organizations said they endorse the project because of the great need for more housing and affordable units and that there are new tennis courts in the project. Stanley Warren said that the city needs higher density housing, and that this project goes toward this goal.

ITEMS (7A) & (7B) SHALL BE HEARD TOGETHER:

(7A) **APPEAL NO. 03-051**

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing the determination dated March 19, 2003, addressed to Andrew Zacks, that the subject property has a legal authorized use of 14 residential guest rooms and 1 dwelling unit, that residential guest rooms constitute "group housing" under § 209.2 of the Planning Code, that this group housing constitutes a permitted conditional use since it was established prior to the enactment of Conditional Use (CU) requirements for said use, and that this permitted conditional use shall be considered abandoned 3 years from the last legal date of residency of the last resident of said guest rooms. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

(7B) APPEAL NO. 03-066

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing a determination dated April 24, 2003, addressed to Andrew Zacks, that the proposed physical modifications to various residential guest rooms at the subject property would result in less viable guest rooms and would constitute a partial conversion of the structure to single family-use from its current legal authorized use of 14 residential guest rooms and 1 dwelling unit, in violation of Planning Code. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the appeals to March 10, 2004 at the written request of the parties.

SPEAKERS: None.

(8) APPEAL NO. 03-153

MICHAEL McCREADY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	355 Country Club Drive. Protesting the issuance on September 18, 2003, to Karen Wong, Site Permit to Alter a Building (on single-family house: 2nd floor addition). APPLICATION NO. 2001/08/21/6532S. PUBLIC HEARING HELD DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reschedule the appeal to Feb. 4, 2004 with the approved plans to be submitted by the permit holder.

SPEAKERS: Bruce Selby, agent for appellant, asked the Board to reschedule the appeal for lack of approved plans in the file. Jeremy Paul, agent for permit holder, objected to the rescheduling request.

(9) **APPEAL NO. 03-117**

GEORGE HAMILTON HAUCK & DUANE FRISBIE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	218 Union Street. Protesting the issuance on July 15, 2003, to John Votruba, Permit to Alter a Building (on 3-story, 7-unit residential building: rebuild upper deck on roof – see NOV No(s). 200336693; new roof ladder). APPLICATION NO. 2003/07/15/9492. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Harrington, the Board voted 4-0 to recuse President Chin. Afterwards, upon motion by Vice President Harrington, the Board voted 4-0-1 (President Chin recused) to reschedule the appeal to Feb. 25, 2004.

SPEAKERS: George Hamilton-Hauck, co-appellant, requested a rescheduling based on pending court proceedings. Theresa & John Votruba, permit holders, objected to the rescheduling request.

(10) **APPEAL NO. 03-140**

MR. & MRS. WILLIAM WEINDORF, MR. & MRS. ALEX SCHWARTZ, MARY ROBINETTE, & SUSAN O'BRIEN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	450 Hamilton Street. Protesting the issuance on August 26, 2003, to Abel Maldonado, Site Permit to Alter a Building (on single-family house: horizontal extension to rear of lot for increased size of master bedroom and bath at 2nd floor, and additional bedrooms at lower level). APPLICATION NO. 2002/02/05/8561S. FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to uphold the subject permit with the following conditions: a) that there be no extension on the 2nd floor; b) that the 1st floor extension not exceed 4 feet; and c) that a roof deck be allowed with open railings.

SPEAKERS: Richard Howard, attorney for appellants, described the negative impacts of the projects to his clients. Alex Schwartz, co-appellant, said he is 88 years old, and wants to retain his sunshine and privacy. Philip Robinette, agent for appellants, explained his opposition to the project, which will allow for greater capacity in the facility; he said he has been intimidated by the children from the facility. Mike Weindorf, for his parents, gave the history of the additions to the house, and the DR decision by the Planning Commission in 1999. Arnold Townsend, agent for permit holders, described the project and the foster child program of the permit holders, and said the appellants' fears are not well founded, and that the new room is intended for a computer for the children. Public comment for the appellants: Michael Baines asked the Board to address the appellants' problem because Mr. Schwartz has done so much for the youth of the city as well as for himself. Richard Ballasteros said the problem is the way the permit holders monitor their foster children, and that police cars regularly visit the house. Ron Parshall said this is a unique block because so many native San Franciscans are still living there, and that the permit holder's house already shadows the Schwartz's house, and that he would not have bought his house if he knew there would be a residential care facility next door. Mike Schredl said his grandfather (Mr. Schwartz) has already lost light and views, and that there is no need for a new room since two adults have left, and the permit holder is limited to 6 children. Public comment for permit holder: Abel Maldonado Jr., son of permit holder, said he lives nearby, and has a similar foster child operation. He said there is no police record for his father's facility, and that if a child throws something out the window into the neighbors' yards, they should call him and he will clean it up. Dana Maldonado, daughter of the permit holder, said they are trying to help children, and that the proposed room will give them more space. Craig Nikitas, PD, explained the Planning Code standards for residential care facilities, and the NSR process and enforcement to protect against illegal units; he said there were no DR requests after the 311 notice was sent out. Leo McFadden, SBI, DBI, explained the egress regulations of the Building Code as they applied to this project. Judy Scredl, for appellant's in rebuttal, said the permit holder gets money from the State for care of the children and makes $36,000 a month for six children.

(11) **APPEAL NO. 03-141**

AUDREY CARLSON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2368 Vallejo Street. Protesting the issuance on August 28, 2003, to Gina Best, Permit to Alter a Building (on 2-unit building: new stucco façade to replace wood shingles; 3-story rear addition; remodel 2nd unit; remodel kitchen of 1st unit; remodel street entry of 2nd unit). APPLICATION NO. 2002/01/04/6319S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold the permit on condition that the guard rail be pulled back 3 feet.

SPEAKERS: Audrey Carlson, appellant, explained how the proposal will affect her light and air, and the negative impact it will have on her property. Scott Emblidge, attorney for appellant, presented several compromises that will ameliorate the impacts over his client's property. David Teeters, archiect for the permit holder, explained several sketches of alterations designed to accommodate the appellant. Public comment: Ivan and Judy Fucilla described their issues with the proposal, and said they support the appellant. Lincoln Chris spoke in favor of the permit holder.

(12) **APPEAL NO. 03-184**

CHARLES & NEL ELWEIN, and TEVIS & LYNNE MARTIN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2831 – 2833 Washington Street. Protesting the issuance on October 21, 2003, to Thomas McCarville, Permit to Alter a Building (on two-family residential building: switch location of two bedrooms; move family room from first to second floor; connect spaces with stairs; expand deck; revisions to Building Permit Application No(s). 2002/07/23/2137). APPLICATION NO. 2003/08/06/1398. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Harrington, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Nel Elwein, appellant, explained her issue with the new deck which will impact her privacy and may cause noise from party goers, and that it's in the line of sight with her bathroom windows. Clint Callan, attorney for permit holder, described the project and said it will have minimum impact on the appellant. Public comment: Monica Elby said she will live in the building and the unit will not be rented as it is a family-owned building, and that the deck only has a depth of five feet.

(13) **APPEAL NO. 03-185**

ARYE MICHAEL BENDER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	3334 Folsom Street. Protesting the issuance on October 21, 2003, to John Woolsey-McKernnon (new owner Tim Albinson), Permit to Alter a Building (on single-family house: removal of stove and refrigerator in basement apartment). APPLICATION NO. 2003/10/21/8076. FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reschedule the appeal to April 14, 2004 at the written request of the parties.

SPEAKERS: None.

Note: At the end of all scheduled hearings, the Board voted 5-0 to cancel the meeting of Jan. 21, 2004 and reschedule all cases to Feb. 4, 11, and 25, 2004.

There being no further business, President Chin adjourned the meeting at 10:40 pm.

Robert H Feldman

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

Board of Appeals

January 21, 2004 (Cancelled Meeting)

NOTICE OF CANCELLED MEETING

The Board of Appeals has **CANCELLED** the meeting of January 21st, 2004 due to lack of quorum. All cases previously scheduled for January 21st, 2004 have been rescheduled to various dates in February 2004.

The next regular meeting is scheduled for **Wednesday, Jan. 28th, 2004, City Hall, Room 416, 5:00 p.m.,** One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any scheduling or appeal matter.

FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

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Date Posted: Jan. 15th, 2004

Board of Appeals

January 28, 2004

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, JANUARY 28, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

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(1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **ELECTION OF OFFICERS:**

(3) **COMMISSIONERS COMMENTS & QUESTIONS:.**

(4) **ADDENDUM ITEMS:**

(4A) **REHEARING REQUEST:**

2776 Mission Street; Appeal No(s). 03-013; Low vs. DBI, Planning Dept. Disapproval

Letter from Dan Sullivan, Agent for Appellant Dennis Low, requesting a rehearing of Appeal No(s). 03-013, decided May 21, 2003. At that time, upon motion by Commissioner Shoemaker, the Board voted 2-3 (President Chin, Vice President Harrington & Commissioner Saunders dissented) to uphold the denial of the subject permit. Four votes being required under Charter § 4.106 to overturn any departmental action, the denial of the subject permit was upheld. Project: abate Notice of Violation No. 200232430; install front roll up gate; remove existing wall to replace existing 2'6" door with a new 3'0" door and 4X8 header with accessible door hardware; the gate is for security purposes, thus closed grill; retail open from 9am to 9pm.

(4B) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 2531-2533 Baker Street; Permit issued on December 24, 2003

Last day to appeal was January 8, 2004; Jurisdiction request received January 12, 2004

Letter from Richard Lund, attorney for requestor Lonna Wais, asking that the Board take jurisdiction over Building Permit Application No(s). 2000/01/28/559S. Project: on two-family house, complete interior and exterior remodel of existing residence combined with 4,877sf of new construction (including basement, attic, garage and habitable space) to create a new single family residence with tandem off-street parking in garage; combine two units into one. Permit Holder(s): Tamar Fruchtman.

(5) **APPEAL NO. 03-044**

JOHN ARKEDER, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on March 19, 2003, of taxicab medallion No. 1167. RESOLUTION NO. 2003-09. FOR HEARING TODAY.

(6) **APPEAL NO. 03-068**

JAMES NEILLY, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on April 23, 2003, of medallion No. 897. RESOLUTION NO. 2003-26. FOR HEARING TODAY.

(7) **APPEAL NO. 01-115**

THERESA ISSERMAN, Appellant(s) vs.	700 Vermont Street. Protesting issuance on June 20, 2001, to

DEPT. OF BUILDING INSPECTION, Respondent	Raymond & Hazel Guaraglia, Permit to Alter a Building (demolish existing non-compliant residential units per Notice of Violation No. 200114983; remove all utilities to ground level; convert to original commercial space with no structural work to be done). APPLICATION NO. 2001/06/20/1935. PUBLIC TESTIMONY HEARD 6/19/03. FOR FURTHER CONSIDERATION TODAY.

(8) **APPEAL NO. 03-150**

JESSIEKA DETRINIDAD, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	737 Pine Street. Appealing a determination dated July 7, 2003, addressed to Niall MacCormack, that the proposed conversion of storage space to a dwelling unit in this 39-unit apartment building would constitute an intensification of a legal non-conforming use, which is prohibited under Planning Code § 181(a). JURISDICTION GRANTED SEPT. 17, 2003. PUBLIC HEARING HELD DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

(9) **APPEAL NO. 02-204**

LEE & RUTH ANN SEWARD, THOMAS & JODY ROBERTSON, SYDNEY GOLDSTEIN, STEVE & BRENDA BOTTUM, & RICK ELLIS, Appellant (s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2736 Pierce Street. Protesting the issuance on October 7, 2002, to P.Q. & June Chin, Permit to Alter a Building (sun deck on top of existing roof, 42" high rail, 4X4 post secured to existing structure(roof)). APPLICATION NO. 2002/10/07/8421. FOR HEARING TODAY.

PLANNING DEPT. APPROVAL	

(10) **APPEAL NO. 03-129**

COLMAN BURKE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL § 14 Parties: N/A (Mandatory DR)	1238 Masonic Avenue. Appealing the denial on August 21, 2003, of Permit to Alter a Building (change two-family dwelling to single-family dwelling). APPLICATION NO. 2003/01/14/5103 FOR HEARING TODAY.

(11) **APPEAL NO. V03-146**

JOHN ZERBE, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	341 Arkansas Street. Appealing the denial on September 19, 2003, of a Parking Variance (proposal is to add a second dwelling unit to the existing single-family house without providing the required additional parking space). VARIANCE CASE NO. 2003.0116V. FOR HEARING TODAY.

(12) **APPEAL NO. 03-196**

FRANCIS DAVID RYAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1018 Clayton Street. Protesting the issuance on September 22, 2003, to Gunther Dertz, Permit to Alter a Building (on single-family house: construct 7' X 36" high one-hour fire rated parapet on roof at south side). APPLICATION NO. 2003/09/22/5414. JURISDICTION GRANTED NOV. 12, 2003. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: January 22, 2004

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JANUARY 28, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Kathleen Harrington, Commissioner Hisashi Sugaya, and Commissioner Sabrina Saunders.

ABSENT: Commissioner Douglas Shoemaker.

Catharine Barnes, Deputy City Attorney (DCA); Craig Nikitas for the Planning Department (PD); Leo McFadden, Senior Building Inspector, Dept. of Building Inspection (SBI DBI); Naomi Little, Executive Director of the Taxi Commission; Executive Secretary Robert Feldman, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) ELECTION OF OFFICERS:

ACTION: Rescheduled to Feb. 4, 2004.

SPEAKERS: None.

(3) COMMISSIONERS COMMENTS & QUESTIONS:.

SPEAKERS: None.

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(4) ADDENDUM ITEMS:

(4A) REHEARING REQUEST:

2776 Mission Street
Appeal No(s). 03-013
Low vs. DBI, Planning Dept. Disapproval

Letter from Dan Sullivan, Agent for Appellant Dennis Low, requesting a rehearing of Appeal No(s). 03-013, decided May 21, 2003. At that time, upon motion by Commissioner Shoemaker, the Board voted 2-3 (President Chin, Vice President Harrington & Commissioner Saunders dissented) to uphold the denial of the subject permit. Four votes being required under Charter § 4.106 to overturn any departmental action, the denial of the subject permit was upheld. Project: abate Notice of Violation No. 200232430; install front roll up gate; remove existing wall to replace existing 2'6" door with a new 3'0" door and 4X8 header with accessible door hardware; the gate is for security purposes, thus closed grill; retail open from 9am to 9pm.

ACTION: Upon motion by Vice President Harrington, the Board voted 3-1-1 (Commissioner Sugaya dissented, Commissioner Shoemaker absent) to grant the rehearing request. Four votes being required to grant such a request, the rehearing request was denied.

SPEAKERS: Dan Sullivan agent for appellant, asked the Board to grant a rehearing so a new decision could allow the owner to amortize his investment in the gate, and said that the high crime rate in the area justifies the gate which is similar to ones in the area for other businesses. Craig Nikitas, PD, said he did not object to a rehearing, and that if the matter was continued the appellant could try other devises that might conform to the Code, and that the standard may be a variable one. No public comment.

(4B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 2531-2533 Baker Street
Permit issued on December 24, 2003
Last day to appeal was January 8, 2004
Jurisdiction request received January 12, 2004

Letter from Richard Lund, attorney for requestor Lonna Wais, asking that the Board take jurisdiction over Building Permit Application No(s). 2000/01/28/559S. Project: on two-family house, complete interior and exterior remodel of existing residence combined with 4,877sf of new construction (including basement, attic, garage and habitable space) to create a new single family residence with tandem off-street parking in garage; combine two units into one. Permit Holder(s): Tamar Fruchtman.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to grant the jurisdiction request, and for the appeal to be scheduled as soon as possible.

SPEAKERS: Richard Lund, attorney for requestor, said that his client, who recently purchased the building, had not received any notice of the issuance of the permit and that the notice had been sent to the former owner who had not passed it along to her, and that his client had notice on the last day to file. Craig Nikitas, PD, said he had no objection to the request. Tamar Fruchtman, permit holder, said she has tried to sit down with the requestor, but the requestor refused to, and then went on to describe her project. Leo McFadden, SBI, DBI, described the notification procedures under the Building Code. No public comment.

(5) **APPEAL NO. 03-044**

JOHN ARKEDER, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on March 19, 2003, of taxicab medallion No. 1167. RESOLUTION NO. 2003-09. FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to reschedule the appeal to March 10, 2004.

SPEAKERS: Geoffrey Rotwein, attorney for appellant, asked for a rescheduling due to the absence of the Commissioner Shoemaker. Naomi Little, ED TC, did not object to the request.

(6) **APPEAL NO. 03-068**

JAMES NEILLY, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on April 23, 2003, of medallion No. 897. RESOLUTION NO. 2003-26. FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to reschedule the appeal to March 10, 2004.

SPEAKERS: Geoffrey Rotwein, attorney for appellant, asked for a rescheduling due to the absence of the Commissioner Shoemaker. Naomi Little, ED TC, did not object to the request.

(7) **APPEAL NO. 01-115**

THERESA ISSERMAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	700 Vermont Street. Protesting issuance on June 20, 2001, to Raymond & Hazel Guaraglia, Permit to Alter a Building (demolish existing non-compliant residential units per Notice of Violation No. 200114983; remove all utilities to ground level; convert to original commercial space with no structural work to be done). APPLICATION NO. 2001/06/20/1935. PUBLIC TESTIMONY HEARD 6/19/03. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-0-1 (Commissioner Shoemaker absent) to reschedule the appeal to April 14, 2004 at the written request of the parties.

SPEAKERS: None.

(8) APPEAL NO. 03-150

JESSIEKA DETRINIDAD, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	737 Pine Street. Appealing a determination dated July 7, 2003, addressed to Niall MacCormack, that the proposed conversion of storage space to a dwelling unit in this 39-unit apartment building would constitute an intensification of a legal non-conforming use, which is prohibited under Planning Code § 181(a). JURISDICTION GRANTED SEPT. 17, 2003. PUBLIC HEARING HELD DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to reschedule the appeal to March 10, 2004, with the public hearing remaining closed.

SPEAKERS: Jessieka deTrinidad, appellant, asked the Board to go forward with the hearing with only four members present. She described the small unit and the history of the building which was built as a 41-unit apartment house, and that the area to be converted back to residential use would be the 40th unit. Catharine Barnes, DCA, answered legal questions for the Board, and said the facts are clear in this case. Leo McFadden, SBI, DBI, said with more time he can get the permits approved over the years. Craig Nikitas, PD, said the problem is that the permit was issued to convert the former unit to storage space, and now it cannot be recreated because of the density requirements which cannot be waived even though the parking requirement is met for the 40th unit.

(9) APPEAL NO. 02-204

LEE & RUTH ANN SEWARD, THOMAS & JODY ROBERTSON, SYDNEY GOLDSTEIN, STEVE & BRENDA BOTTUM, & RICK ELLIS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2736 Pierce Street. Protesting the issuance on October 7, 2002, to P.Q. & June Chin, Permit to Alter a Building (sun deck on top of existing roof, 42" high rail, 4X4 post secured to existing structure(roof)). APPLICATION NO. 2002/10/07/8421. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 4-0-1 (Commissioner Shoemaker absent) to reschedule the appeal to March 24, 2004 at the written request of the parties.

SPEAKERS: None.

(10) **APPEAL NO. 03-129**

COLMAN BURKE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL § 14 Parties: N/A (Mandatory DR)	1238 Masonic Avenue. Appealing the denial on August 21, 2003, of Permit to Alter a Building (change two-family dwelling to single-family dwelling). APPLICATION NO. 2003/01/14/5103 FOR HEARING TODAY.

ACTION: Upon motion by vice President Harrington, the Board voted 4-0-1 (Commissioner Shoemaker absent) to overrule denial and grant the permit with adoption of findings at a later date.

SPEAKERS: Craig Nikitas, PD, explained the Commission's denial of the application for unit merger, and said the long permit history shows it is a two-family house. Joel Yodowitz, attorney for appellant, gave the history of Burke family's ownership of the property, and said they purchased the building for one-family use which they thought was the lawful use, but they had no counsel at the Planning Commission hearing, and that they would not have purchased it if they could not use it as a single-family house. Coleman Burke, appellant, said that there is no evidence that there is a second unit since there is only one kitchen in the building. No public comment.

(11) **APPEAL NO. V03-146**

JOHN ZERBE, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	341 Arkansas Street. Appealing the denial on September 19, 2003, of a Parking Variance (proposal is to add a second dwelling unit to the existing single-family house without providing the required additional parking space). VARIANCE CASE NO. 2003.0116V. FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to uphold the denial.

SPEAKERS: Craig Nikitas, PD, said that revised plans have been submitted by the appellant which complies with the Code so that no variance is necessary for the project. Appellant did not appear.

(12) **APPEAL NO. 03-196**

FRANCIS DAVID RYAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1018 Clayton Street. Protesting the issuance on September 22, 2003, to Gunther Dertz, Permit to Alter a Building (on single-family house: construct 7' X 36" high one-hour fire rated parapet on roof at south side). APPLICATION NO. 2003/09/22/5414. JURISDICTION GRANTED NOV. 12, 2003. FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to continue the matter to March 24, 2004, with the public hearing closed.

SPEAKERS: Christine Ryan, wife of appellant, explained their concerns with the project which will block the only windows in the kitchen. Gunther Dertz, permit holder, said that he does not want to block the appellant's .light, and that he was told that glass could be substituted for the solid wall. Craig Nikitas, PD, said that fire-rated glass was recommended by the Chief Building Inspector. Leo McFadden, SBI, DBI, said that there are other ways to insure fire protection than a parapet, and that a parapet is not required in this instance. No public comment.

There being no further business, President Chin adjourned the meeting at 7:18 p.m.

Robert H Feldman

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, FEBRUARY 4, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) ELECTION OF OFFICERS:

(3) COMMISSIONERS COMMENTS & QUESTIONS:

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(4) SPECIAL ITEM(S):

ITEM A: Presentation by Planning Dept. staff of the Revised Residential Design Guidelines.

ITEM B: Presentation by Planning Dept. staff of the recently adopted Temporary Residential Demolition Policy.

(5) ADDENDUM ITEMS:

(5A) REHEARING REQUEST:

Taxi Medallion No(s). 129
Appeal No(s). 02-020
Adams vs. Taxi Commission

Letter from John Feldmann III, Attorney for David Adams, Appellant(s), requesting rehearing of Appeal No(s). 02-020, decided June 25, 2003. At that time, upon motion by Commissioner Saunders, the Board voted 3-2 (Commissioners Shoemaker & Sugaya dissented) to overrule the Taxi Commission and add the appellant's name to the subject medallion. Four votes being required under Charter § 4.106 to overturn or modify a departmental action, the motion failed, and the Taxi Commission's denial of the request to add the appellant's name to medallion no. 129 was upheld.

(5B) **ADOPTION OF FINDINGS:**

3632-3638 Sacramento Street
Appeal No(s). 03-122
Bulkley vs. DBI, Planning Dept. Disapproval

Proposed findings submitted by appellant Honor Bulkley. For discussion and adoption. **Note:** On Dec. 3, 2003, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the denial, and grant the permit with adoption of findings on Dec. 17, 2003. Project: on two-story office/residential building in the Sacramento Street Neighborhood Commercial Zoning District: level two has apparently been used for offices since 1976; the purpose of this application is to legalize present use; no construction is proposed. Property Owner(s): Honor Bulkley.

(6) APPEAL NO. 03-198

PETER MAN, Appellant(s) vs. POLICE DEPARTMENT, Respondent	662 Mission Street. Appealing the denial on December 2, 2003, of a Valet Parking-Fixed Location Permit (P48). FOR HEARING TODAY.

(7) CONSENT ITEMS (DBI PENALTY):

With the consent of the Dept. of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(7A) APPEAL NO. 03-195

PRENTICE STEFFEN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	122 Hugo Street. Appeal for refund of penalty imposed on November 12, 2003, for work done without a permit (on 2-unit building: NOV #200343243; add partitions to separate one large storage area into a weight room, passage way and storage room). APPLICATION NO. 2003/10/03/6543. FOR HEARING TODAY.

(7B) APPEAL NO. 03-200

JAMES CHAU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2783 Folsom Street. Appeal for refund of penalty imposed on Dec. 17, 2003 for work done without a permit (on two-story office-building: as built layout, for final inspection only, interior layout changes only). APPLICATION NO. 2003/11/04/9386. FOR HEARING TODAY.

(8) **APPEAL NO. 03-019**

LIKE LIU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2282 – 28th Avenue. Protesting the issuance on November 12, 2002, to Cheng Lee, Permit to Alter a Building (on single-family house: remove illegal unit at ground floor, remove non-bearing partitions, kitchen, toilet and closet; create new storage). APPLICATION NO. 2002/11/12/1225. JURISDICTION GRANTED JAN. 22, 2003. **Note:** The Board voted 4-0-1 on April 2, 2003 to uphold the subject permit due to non-appearance of appellant. On April 30, 2003, the Board voted 5-0 to grant the appellant's rehearing request. At the rehearing of June 4, 2003, the Board voted to place the matter on the Call of the Chair so that the parties could work on an agreement. Both parties have now requested that the matter be brought back to the Board. REHEARING HELD & CLOSED ON JUNE 4, 2003. FOR FURTHER CONSIDERATION TODAY. **Further Note:** Audiotapes of the June 4, 2003 testimony were available for review by Board members.

(9) **APPEAL NO. V03-106**

ROGER LOTZ, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	561 Sanchez Street. Protesting the granting on June 24, 2003, to Gordon Atkinson (Subject Property Owner Gus Nelson), Rear Yard Variance (on single-family house: construction of a deck and stairs within the required rear yard of the existing, non-complying, single-family dwelling; the proposed deck would extend 3 feet to the north from the north building wall of the legal non-complying extension, 12 feet towards the rear with the stairs extending an additional 10 feet at the south side of the deck; no privacy screen is required). VARIANCE CASE NO. 2003.0040V. FOR HEARING TODAY.

(10) **APPEAL NO. 03-153**

MICHAEL McCREADY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	355 Country Club Drive. Protesting the issuance on September 18, 2003, to Karen Wong, Site Permit to Alter a Building (on single-family house: 2nd floor addition). APPLICATION NO. 2001/08/21/6532S. PUBLIC HEARING HELD DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

(11) **APPEAL NO. 03-191**

KUMAR PATEL & DOUGLAS GOLDMAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2518 Union Street. Protesting the issuance on October 31, 2003, to Marc Cabi, Permit to Alter a Building (on single-family house: 3-story rear addition, bay additions east/west sides, new foundation, garage addition, terrace addition at front, new rear egress stair, roof alterations, remodel kitchen and bathrooms). APPLICATION NO. 2001/04/11/6580. FOR HEARING TODAY.

ITEMS (12A) & (12B) SHALL BE HEARD TOGETHER:

(12A) **APPEAL NO. 03-197**

ALL-CITY CONSTRUCTION CO., Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that Building Permit Application No(s). 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. FOR HEARING TODAY.

(12B) **APPEAL NO. 03-199**

HOWARD & SUSIE WOO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that Building Permit Application No(s). 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. FOR HEARING TODAY.

(13) **APPEAL NO. 03-201**

MARIO CASTAGNOLA, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	529 – 21st Avenue. Protesting the issuance on December 5, 2003, to Waishan Leung, Site Permit to Erect a Building (4-story, 2-unit building with 1,770sf of ground floor area). APPLICATION NO. 2002/06/14/9075S. FOR HEARING TODAY.

(14) **APPEAL NO. 03-202**

JUDITH ALLEN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2070 – 16th Avenue. Protesting the issuance on Dec. 12, 2003, to Natalya Lvoff, Permit to Alter a Building (on single-family house: remove kitchen facility so as to remove non-conforming unit from ground floor). APPLICATION NO. 2003/12/12/2242. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: Jan. 28th, 2004

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
KATHLEEN HARRINGTON	VICE PRESIDENT
SABRINA N. SAUNDERS	COMMISSIONER
DOUGLAS SHOEMAKER	COMMISSIONER
HISASHI B. SUGAYA	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents:

1. Appellant's Preliminary Statement of Appeal and Brief.
2. Respondent's or Permit holder's Response Brief.
3. Appellant's Reply.
4. Department decision, order, permit, determination, resolution, or Notice of Violation.
5. Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, FEBRUARY 4, 2004

104

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Kathleen Harrington, Commissioner Douglas Shoemaker, Commissioner Hisashi Sugaya, and Commissioner Sabrina Saunders.

Catharine Barnes, Deputy City Attorney (DCA); Craig Nikitas, Acting Zoning Administrator (AZA); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI DBI); Naomi Little, Executive Director of the Taxi Commission (ED, TC); Sgt. William Coggan for the Police Dept. Legal Division (PD LD); Executive Secretary Robert Feldman, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) ELECTION OF OFFICERS:

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to elect Vice President Harrington as President and to elect Commissioner Sugaya as Vice President.

SPEAKERS: None.

(3) COMMISSIONERS COMMENTS & QUESTIONS:

SPEAKERS: None.

(4) SPECIAL ITEM(S):

ITEM A: Presentation by Planning Dept. staff of the Revised Residential Design Guidelines.

SPEAKERS: Max Putra and Isolde Wilson, Planners, presented the new residential design guidelines and responded to Board questions. No public comment.

ITEM B: Presentation by Planning Dept. staff of the recently adopted Temporary Residential Demolition Policy.

ACTION: Rescheduled to a later date.

SPEAKERS: None.

(5) ADDENDUM ITEMS:

(5A) REHEARING REQUEST:

Taxi Medallion No(s). 129
Appeal No(s). 02-020
Adams vs. Taxi Commission

Letter from John Feldmann III, Attorney for David Adams, Appellant(s), requesting rehearing of Appeal No(s). 02-020, decided June 25, 2003. At that time, upon motion by Commissioner Saunders, the Board voted 3-2 (Commissioners Shoemaker & Sugaya dissented) to overrule the Taxi Commission and add the appellant's name to the subject medallion. Four votes being required under Charter § 4.106 to overturn or modify a departmental action, the motion failed, and the Taxi Commission's denial of the request to add the appellant's name to medallion no. 129 was upheld.

ACTION: Upon motion by President Chin, the Board voted 4-1 (Commissioner Sugaya dissented) to grant the rehearing request and to set the rehearing for March 10, 2004.

SPEAKERS: John Feldmann III, attorney for appellant/requestor, asked the Board to grant a rehearing and described the history of his client's attempt to have his name added to the subject medallion. Naomi Little, ED TC, opposed the request since no new testimony was being offered that could justify a rehearing. Inpsector Farrell Suslow, PD TD, explained his understanding of the facts in the case. No public comment.

(5B) ADOPTION OF FINDINGS:

3632-3638 Sacramento Street
Appeal No(s). 03-122
Bulkley vs. DBI, Planning Dept. Disapproval

Proposed findings submitted by appellant Honor Bulkley. For discussion and adoption. **Note:** On Dec. 3, 2003, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the denial, and grant the permit with adoption of findings on Dec. 17, 2003. Project: on two-story office/residential building in the Sacramento Street Neighborhood Commercial Zoning District: level two has apparently been used for offices since 1976; the purpose of this application is to legalize present use; no construction is proposed. Property Owner(s): Honor Bulkley.

ACTION: Upon motion by President Chin, the Board voted 5-0 to adopt the findings submitted by the appellant's attorney on Feb. 3, 2004.

SPEAKERS: Michael Yarne, attorney for appellant, asked the Board to adopt the findings his office submitted prepared in consultation with the Office of the City Attorney. No public comment.

(6) APPEAL NO. 03-198

PETER MAN, Appellant(s) vs. POLICE DEPARTMENT, Respondent	662 Mission Street. Appealing the denial on December 2, 2003, of a Valet Parking-Fixed Location Permit (P48). FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-1 (Commissioner Shoemaker dissented) to overrule the denial, and grant the permit on condition that the appellant not park cars or control keys, and on condition that a third party undertake the valet service, with findings as read into the record by President Chin.

SPEAKERS: Sgt. William Coggan, PD LD, explained the nature of the application and why the Chief denied it. Dave Neville, attorney for appellant, asked the Board to grant the permit and agreed to conditions restricting the appellant from driving any of the cars at all. No public comment.

(7) CONSENT ITEMS (DBI PENALTY):

With the consent of the Dept. of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(7A) APPEAL NO. 03-195

PRENTICE STEFFEN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	122 Hugo Street. Appeal for refund of penalty imposed on November 12, 2003, for work done without a permit (on 2-unit building: NOV #200343243; add partitions to separate one large storage area into a weight room, passage way and storage room). APPLICATION NO. 2003/10/03/6543. FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reduce the subject penalty to 2 times the regular fee.

SPEAKERS: None; consent was granted by DBI.

(7B) **APPEAL NO. 03-200**

JAMES CHAU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2783 Folsom Street. Appeal for refund of penalty imposed on Dec. 17, 2003 for work done without a permit (on two-story office-building: as built layout, for final inspection only, interior layout changes only). APPLICATION NO. 2003/11/04/9386. FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reschedule the appeals to the call of the chair.

SPEAKERS: Laurence Kornfield, CBI DBI, requested that the Board continue the case until the appellant has gone through the required conditional use (CU) process with the Planning Commission. No public comment.

(8) **APPEAL NO. 03-019**

LIKE LIU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2282 – 28th Avenue. Protesting the issuance on November 12, 2002, to Cheng Lee, Permit to Alter a Building (on single-family house: remove illegal unit at ground floor, remove non-bearing partitions, kitchen, toilet and closet; create new storage). APPLICATION NO. 2002/11/12/1225. JURISDICTION GRANTED JAN. 22, 2003. **Note:** The Board voted 4-0-1 on April 2, 2003 to uphold the subject permit due to non-appearance of appellant. On April 30, 2003, the Board voted 5-0 to grant the appellant's rehearing request. At the rehearing of June 4, 2003, the Board voted to place the matter on the Call of the Chair so that the parties could work on an agreement. Both parties have now requested that the matter be brought back to the Board. REHEARING HELD & CLOSED ON JUNE 4, 2003. FOR FURTHER CONSIDERATION TODAY. **Further Note:** Audiotapes of the June 4, 2003 testimony were available for review by Board members.

ACTION: Upon motion by President Chin, the Board voted 5-0 to uphold the permit on condition that no work begin until June 30, 2004.

SPEAKERS: Like Liu, appellant, gave a history of his tenancy and asked the Board to legalize his apartment so that he would not lose his home. Jeffrey Chen, attorney for permit holder, said there was discussion but that no agreement had been arrived at, and that the parties were still very far apart. He asked the Board to uphold the permit so that his client can correct the violations as set forth in the NOV. Public comment for appellant: Ming Zhang explained that there are many illegal untis in the Sunset, and that evicting the appellant would be a severe hardship on the appellant and his family. No public comment for permit holder. Craig Nikitas, AZA, said there is no way the unit can be legalized under the current Planning Code.

(9) **APPEAL NO. V03-106**

ROGER LOTZ, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	561 Sanchez Street. Protesting the granting on June 24, 2003, to Gordon Atkinson (Subject Property Owner Gus Nelson), Rear Yard Variance (on single-family house: construction of a deck and stairs within the required rear yard of the existing, non-complying, single-family dwelling; the proposed deck would extend 3 feet to the north from the north building wall of the legal non-complying extension, 12 feet towards the rear with the stairs extending an additional 10 feet at the south side of the deck; no privacy screen is required). VARIANCE CASE NO. 2003.0040V. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to uphold the variance with the following condition(s): that the deck be pulled back on the appellant's side to line up with the subject building; that a small 3 foot deck be allowed in front of the living room sliding door; and that open rails be used on the sides of both decks that face the appellant's property.

SPEAKERS: Craig Nikitas, AZA, explained the variance decision. Roger Lotz, appellant, described the effect of the project on his property. Eva del Campo, wife of the appellant, elaborated on her husband's presentation in opposition to the variance decision, saying that sunlight blockage is the main concern. Gordon Atkinson, architect for the owners, gave an analysis of the shadowing that will and will not occur from the project. Public comment for appellant: John Horwedel said he is a tenant in the appellant's building and that loss of sunlight and privacy are the main issues. Public comment for owners: Ed Hardy said he feels the project is reasonable, and that the appellant has already opposed the project under the DR process.

(10) APPEAL NO. 03-153

MICHAEL McCREADY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	355 Country Club Drive. Protesting the issuance on September 18, 2003, to Karen Wong, Site Permit to Alter a Building (on single-family house: 2nd floor addition). APPLICATION NO. 2001/08/21/6532S. PUBLIC HEARING HELD DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Laurence Kornfield, CBI DBI, reported to the Board on his review of the revised plans which had been submitted, and said that the plans conformed to the conditions required by the Board. The addition does not exceed 1,100sf of floor area as restricted by the Board. Craig Nikitas, AZA, explained that there was no deck shown on the original plans, and there was no roof area on which to place it, and that the plans are consistent with the Board's revisions and privacy issues are of concern. Bruce Selby, agent for appellant, said there are many violations and that the plans are not consistent with the Board's ruling and asked the Board to reinstate the 900sf limit imposed by the Planning Commission. Jeremy Paul, agent for permit holder, said that no new 311 notice was required by the Planning Dept., and that no new evidence was being offered that could justify denying the permit. No public comment.

(11) APPEAL NO. 03-191

KUMAR PATEL & DOUGLAS GOLDMAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2518 Union Street. Protesting the issuance on October 31, 2003, to Marc Cabi, Permit to Alter a Building (on single-family house: 3-story rear addition, bay additions east/west sides, new foundation, garage addition, terrace addition at front, new rear egress stair, roof alterations, remodel kitchen and bathrooms). APPLICATION NO. 2001/04/11/6580. FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to uphold the subject permit with the settlement as agreed to by the parties, with amendments as read into the record by the parties.

SPEAKERS: Lu Blazej, agent for appellants, announced the settlement to the Board. David Cincotta, attorney for permit holder, described various amendments that had also been agreed to by the parties. No public comment.

ITEMS (12A) & (12B) SHALL BE HEARD TOGETHER:

(12A) **APPEAL NO. 03-197**

ALL-CITY CONSTRUCTION CO., Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that Building Permit Application No(s). 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. FOR HEARING TODAY.

(12B) **APPEAL NO. 03-199**

HOWARD & SUSIE WOO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that Building Permit Application No(s). 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to continue the appeals to March 24, 2004, with submittals due by March 3, 2004 from DBI, and March 10, 2004 from the appellants, with the public hearing closed.

SPEAKERS: Laurence Kornfield, CBI DBI, explained the Code provisions concerned with unlawful demolitions and the penalties imposed for them and he described the facts in this case that led to the director's decision. Joel Yodowitz, attorney for appellant All City Construction Co., said his client had no intention to avoid the Code requirements, and that the penalties are draconian and not justified in this case where there is no objection to the project. Roger Meredith, attorney for appellants Howard and Susie Woo, said his clients had no knowledge of the violations or of the Code requirements, and that they relied on the contractor to obtain all necessary permits. Public comment for respondent: Maria Sousa said overruling the decision would send a message to developers that they can avoid the demolition permit process with impunity. No public comment for appellants. Kan Harrington, Dep. Director of DBI, urged the Board to uphold the decision because the facts of the violation and the Code provisions are all clear and not ambiguous. Long Xu, owner of All-City Construction Co., said he saw rotten wood and took the house down in order to build according to the plans. Neil Sofia, former architect of owners, said he urged the owners to have him monitor the project, and if he had, the problem would not have happened, and that there is no conflict between the structural and architectural plans.

(13) **APPEAL NO. 03-201**

MARIO CASTAGNOLA, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	529 – 21st Avenue. Protesting the issuance on December 5, 2003, to Waishan Leung, Site Permit to Erect a Building (4-story, 2-unit building with 1,770sf of ground floor area). APPLICATION NO. 2002/06/14/9075S. FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-1 (Vice President Harrington dissented) to uphold the subject permit with the following condition(s): that the entrance be changed to a one-story entrance; and that white reflective paint be used in the light wells.

SPEAKERS: Mario Castagnola, appellant, said he has three concerns with the project: the excavation which threatens his foundation; the lack of matching light wells; and the fourth floor which will block his two top windows. Dennis Estrada, agent for appellant, said the neighbors' main objection is that the proposed building will be too big for the site and out of character with the neighborhood. Jessica Leung, agent for permit holder, described her family and how they intend to live in the house which will not be out of scale with the neighborhood. Craig Nikitas, AZA, said the project must have proper underpinning so that it will not endanger the neighbors' property. He urged the Board to uphold the Planning Commission's decision approving the permit and plans. Public comment for appellant: Philip Cranna said the house will be too big and will not fit into the neighborhood. Jim Draper is concerned about a possible illegal unit being created in the basement. Henry Peglar said he wants to see the character of the neighborhood maintained. Mario Salinas said the plumbing and configuration of the basements is susceptible to the creation of illegal units. Greg Wright said the bathrooms in the basement are for illegal units. Nina Block said the proposed building will block her light well. Public comment for permit holder: Antonio Barrientos said there is nothing wrong with the proposal. Liu Rui Qian via Cantonese translator Esme Szeto said the permit holders have made compromises to accommodate the neighbors and it would not be fair to make them review the plans for the façade. Kim Tam via Cantonese translator Esme Szeto said he supports the project. Peter Brandtler said he thinks the existing house does not fit in but that the proposed one does. Nancy Chang said the family wants to build the house so that they can stay in the neighborhood where their parents have lived for many years. Fred Seto said the project is a good one that will enable children to take care of their aged parents. Lewison Lem said that the basement will be a library for the father who is a scholar. Gantham Reddy said the project will not be a monster house but will be a breath of fresh air, with much community support; at his request for those in the audience in support of the project, about 20 people responded. Waishan Leung, permit holder, in rebuttal said the house will allow her family to stay in the area near other family members.

(14) **APPEAL NO. 03-202**

JUDITH ALLEN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2070 – 16th Avenue. Protesting the issuance on Dec. 12, 2003, to Natalya Lvoff, Permit to Alter a Building (on single-family house: remove kitchen facility so as to remove non-conforming unit from ground floor). APPLICATION NO. 2003/12/12/2242. FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to continue the appeal to the call of the chair with DBI to inspect for life/safety issues and to report back to the Board on Feb. 11, 2004.

SPEAKERS: Judith Allen, appellant, said she was counseled by Tom Drohan, and she gave a history of her tenancy and relationship with former owner and the permit holder. Denise Leadbetter, attorney for permit holder, said her clients want to remove the illegal unit and make the house their home. Laurence Kornfield, CBI DBI, said in response to a Board request that he will make a site vist and report back to the Board on the habitability of the unit and any safety problems or Code violations. No public comment.

There being no further business, President Chin adjourned the meeting at 11:30 p.m.

Robert H Feldman

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, FEBRUARY 11, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS:

(3A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 126 – 128 Sickles Avenue
Permit issued on Dec. 11, 2003
Last day to appeal was Dec. 26, 2003
Jurisdiction request received Jan. 22, 2003

Letter from Margaret Kostouros, asking that the Board take jurisdiction take jurisdiction over Building Permit Application No(s). 2002/08/20/4473. Project:: 3-story rear addition. Permit Holder(s): Jeremy Yu.

(3B) ADOPTION OF FINDINGS:

1238 Masonic Avenue
Appeal No(s). 03-129
Burke vs. DBI, PCD

Proposed findings submitted by Joel Yodowitz, attorney for appellant Coleman Burke. On Jan. 28, 2004, the Board voted 4-0-1 (Commissioner Shoemaker absent) to overrule the denial by the Planning Commission, and grant the subject permit with adoption of findings at a later date. Project: change two-family dwelling to single-family dwelling.

(3C) **REHEARING REQUEST:**

8 Washington Street.
Appeal No(s). 03-186
Friends of Golden Gateway vs. ZA

Letter from Sue Hestor, attorney for Friends of Golden Gateway, appellant(s), requesting rehearing of Appeal No(s). 03-186, decided Jan. 14, 2004. At that time, upon motion by Commissioner Shoemaker, the Board voted 2-3 (President Chin, Vice President Harrington, and Commissioner Saunders dissented) to overturn the subject determination. Four votes being required to overturn a departmental action, the motion failed, and the subject determination was upheld. Determination: although the Planning Department reviews projects within expired Redevelopment project areas as Planned Unit Developments (PUD's), the department does not and has never treated entire project areas as a single PUD, and thus a development application for improvements to the subject property (Block 0201) may be filed and reviewed independently as a stand-alone project, which does not require conditional use (CU) authorization for modification of the Golden Gateway Center PUD. Subject Property Owner(s): Golden Gateway Center et al.

(4) **APPEAL NO. 03-133**

ISHTIAQ BOKHARI, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on August 18, 2003, of a Driver of Public Passenger Vehicle for Hire Permit. RESOLUTION NO. 2003-65. FOR HEARING TODAY.

(5) **APPEAL NO. 03-206**

JOE LEUNG, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on December 16, 2003, of a Driver of Public Passenger Vehicle for Hire Permit. RESOLUTION NO. 2003-87. FOR HEARING TODAY.

(6) **APPEAL NO. 02-172**

TOM KATZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	1349 Clayton Street. Appealing the denial on August 30, 2002, of a Permit to Alter a Building (on 13-unit apartment building: replace existing steel with vinyl retrofit – same shape and size; total 20 windows). APPLICATION NO. 2002/07/25/2280. **NOTE:** The Board held a hearing on March 19, 2003, and voted to uphold the denial of the subject permit. On April 23, 2003, the Board voted 4-1 to grant a rehearing. At the rehearing of May 21, 2003, the appellant was not present, and the Board voted 5-0 to uphold the denial of the subject permit. At the jurisdiction request of June 25, 2003, the Board voted 4-1 to rescind the motion of May 21, 2003 upholding the denial of the subject permit, and to reschedule the rehearing for July 9, 2003 with letter notices to be sent out. **FURTHER NOTE:** On July 9, 2003, the Board voted 4-1 to reschedule the matter to the Call of the Chair so that the appellant and the Planning Dept. can have some time to work out a solution. The appellant and the Planning Dept. have now requested that the matter be brought back to the Board. FOR REHEARING TODAY.

(7) **APPEAL NO. 03-190**

TOM KATZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	616 Shrader Street. Appealing the suspension on August 6, 2003, of Building Permit Application No(s). 2003/08/06/1364 & 2003/07/23/0191. Reason(s) for suspension: the first permit was approved erroneously, and the second permit requires further review by the Planning Dept. since both permits did not receive residential guideline review by Planning Dept. preservation technical specialists, which is required for the replacement of windows on architecturally significant buildings like the subject property. JURISDICTION GRANTED NOV. 12, 2003. FOR HEARING TODAY.

ITEMS (8A), (8B) & (8C) SHALL BE HEARD TOGETHER:

(8A) **APPEAL NO. 03-147**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street. Appealing the denial on September 26, 2003, of Permit to Demolish a Building (two-story single family house with 1,316sf of ground floor area). APPLICATION NO. 2002/07/15/1446. FOR HEARING TODAY.

(8B) **APPEAL NO. 03-148**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building B). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1437S. FOR HEARING TODAY.

(8C) **APPEAL NO. 03-149**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building A). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1442S. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: February 5, 2004

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	**PRESIDENT**
KATHLEEN HARRINGTON	**VICE PRESIDENT**
SABRINA N. SAUNDERS	**COMMISSIONER**
DOUGLAS SHOEMAKER	**COMMISSIONER**
HISASHI B. SUGAYA	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents:

1. Appellant's Preliminary Statement of Appeal and Brief.
2. Respondent's or Permit holder's Response Brief.
3. Appellant's Reply.
4. Department decision, order, permit, determination, resolution, or Notice of Violation.
5. Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, FEBRUARY 11, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, and Commissioner Douglas Shoemaker.

ABSENT: Commissioner Sabrina Saunders.

Catharine Barnes, Deputy City Attorney (DCA); Jonas Ionin, Senior Planner, Planning Department (PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI DBI); Naomi Little, Executive Director of the Taxi Commission (ED, TC); Sgt. Vince Simpson for the Police Dept. Taxi Detail (PD TD); Executive Secretary Robert Feldman, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) **PUBLIC COMMENT:**

> At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: Sue Hestor asked for clarification of Board rules of presentation for requests for rehearing and on submittal of documents in violation of briefing schedules. Laurence Kornfield, CBI DBI, reported on a requested safety inspection for Appeal No. 03-202; he said the unit is safe for occupancy and not a hazardous situation. Barry Taranto of the UTW asked the Board to read a recent article in his group's newsletter.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: None.

(3) **ADDENDUM ITEMS:**

(3A) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 126 – 128 Sickles Avenue
Permit issued on Dec. 11, 2003
Last day to appeal was Dec. 26, 2003
Jurisdiction request received Jan. 22, 2003

Letter from Margaret Kostouros, asking that the Board take jurisdiction take over Building Permit Application No(s). 2002/08/20/4473. Project:: 3-story rear addition. Permit Holder(s): Jeremy Yu.

ACTION: Withdrawn by the requestor prior to consideration.

SPEAKERS: None.

(3B) **ADOPTION OF FINDINGS:**

1238 Masonic Avenue
Appeal No(s). 03-129
Burke vs. DBI, PCD

Proposed findings submitted by Joel Yodowitz, attorney for appellant Coleman Burke. On Jan. 28, 2004, the Board voted 4-0-1 (Commissioner Shoemaker absent) to overrule the denial by the Planning Commission, and grant the subject permit with adoption of findings at a later date. Project: change two-family dwelling to single-family dwelling.

ACTION: Upon motion by Commissioner Chin, the Board voted 3-1-1 (Commissioner Shoemaker dissented, Commissioner Saunders absent) to adopt the findings.

SPEAKERS: None.

(3C) **REHEARING REQUEST:**

8 Washington Street.
Appeal No(s). 03-186
Friends of Golden Gateway vs. ZA

Letter from Sue Hestor, attorney for Friends of Golden Gateway, appellant(s), requesting rehearing of Appeal No(s). 03-186, decided Jan. 14, 2004. At that time, upon motion by Commissioner Shoemaker, the Board voted 2-3 (President Chin, Vice President Harrington, and Commissioner Saunders dissented) to overturn the subject determination. Four votes being required to overturn a departmental action, the motion failed, and the subject determination was upheld. Determination: although the Planning Department reviews projects within expired Redevelopment project areas as Planned Unit Developments (PUD's), the department does not and has never treated entire project areas as a single PUD, and thus a development application for improvements to the subject property (Block 0201) may be filed and reviewed independently as a stand-alone project, which does not require conditional use (CU) authorization for modification of the Golden Gateway Center PUD. Subject Property Owner(s): Golden Gateway Center et al.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 2-2-1 (Commissioner Chin & Vice President Sugaya dissented, Commissioner Saunders absent) to reschedule the request to Feb. 18, 2004. 3 votes being required to reschedule a matter, the motion failed, and the request for rehearing went forward. Afterward, upon motion by Commissioner Shoemaker, the Board voted 1-3-1 (Commissioner Chin, President Harrington, and Vice President Sugaya dissented, Commissioner Saunders absent) to grant the rehearing request. 4 votes being required to grant a rehearing request, the motion failed, and the request was denied.

SPEAKERS: Allen Brotsky, attorney for appellant, asked that the matter be continued to a meeting with five members present. Pamela Duffy, attorney for project sponsor, objected to a rescheduling and asked that the matter be heard since there is no new evidence being offered which would justify a new hearing.

(4) APPEAL NO. 03-133

ISHTIAQ BOKHARI, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on August 18, 2003, of a Driver of Public Passenger Vehicle for Hire Permit. RESOLUTION NO. 2003-65. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Harrington, the Board voted 4-0-1 (Commissioner Saunders absent) to continue the case to the call of the chair with the public hearing closed.

SPEAKERS: Sgt. Vince Simpson, PD TD, described the incident upon which the revocation was based. Officer Kevin Jones, PD Juvenile Division, described the incident and his interview with the appellant. Sherry Gendelman, attorney for appellant, explained her arguments against the Taxi Commission's action, and asked the Board to reduce the punishment which she said is too severe. No public comment.

(5) APPEAL NO. 03-206

JOE LEUNG, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on December 16, 2003, of a Driver of Public Passenger Vehicle for Hire Permit. RESOLUTION NO. 2003-87. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 3-0-2 (Commissioners Shoemaker and Saunders absent) to reschedule the case to March 24, 2004 at the prior written request of the parties.

SPERAKERS : None.

(6) APPEAL NO. 02-172

TOM KATZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	1349 Clayton Street. Appealing the denial on August 30, 2002, of a Permit to Alter a Building (on 13-unit apartment building: replace existing steel with vinyl retrofit – same shape and size; total 20 windows). APPLICATION NO. 2002/07/25/2280. **NOTE:** The Board held a hearing on March 19, 2003, and voted to uphold the denial of the subject permit. On April 23, 2003, the Board voted 4-1 to grant a rehearing. At the rehearing of May 21, 2003, the appellant was not present, and the Board voted 5-0 to uphold the denial of the subject permit. At the jurisdiction request of June 25, 2003, the Board voted 4-1 to rescind the motion of May 21, 2003 upholding the denial of the subject permit, and to reschedule the rehearing for July 9, 2003 with letter notices to be sent out. **FURTHER NOTE:** On July 9, 2003, the Board voted 4-1 to reschedule the matter to the Call of the Chair so that the appellant and the Planning Dept. can have some time to work out a solution. The appellant and the Planning Dept. have now requested that the matter be brought back to the Board. FOR REHEARING TODAY.

ACTION: Orally withdrawn by the appellant.

SPEAKERS: Jonas Ionin, PD, explained that an agreement has been reached with the appellant and the windows can remain as they are. Tom Katz, appellant, withdrew his appeal. No public comment.

(7) APPEAL NO. 03-190

TOM KATZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	616 Shrader Street. Appealing the suspension on 8/6/03, of BPA No. 2003/08/06/1364 & 2003/07/23/0191. Reason(s) for suspension: the 1st permit was approved erroneously, and the 2nd permit requires further review by the Planning Dept. since both permits did not receive residential guideline review by Planning Dept. preservation technical specialists, which is required for the replacement of windows on architecturally significant buildings like the subject property. JURISDICTION GRANTED NOV. 12, 2003. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 3-1-1 (Vice President Sugaya dissented, Commissioner Saunders absent) to continue the case to March 3, 2004 with the public hearing closed.

SPEAKERS: Jonas Ionin, PD, explained that the case appeared to be a matter of fraud and he asked the Board to uphold the suspension. Paul Delson, attorney for appellant, urged the Board to overrule the suspension for the reason the appellant had followed the rules and had obtained a permit for window replacement as required. Dennis Shea, subject property owner, supported the appellant and said the buildings nearby had different kinds of windows and the vinyl ones will fit into the neighborhood nicely. No public comment.

ITEMS (8A), (8B) & (8C) SHALL BE HEARD TOGETHER:

(8A) **APPEAL NO. 03-147**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street. Appealing the denial on September 26, 2003, of Permit to Demolish a Building (two-story single family house with 1,316sf of ground floor area). APPLICATION NO. 2002/07/15/1446. FOR HEARING TODAY.

(8B) **APPEAL NO. 03-148**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building B). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1437S. FOR HEARING TODAY.

(8C) **APPEAL NO. 03-149**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building A). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1442S. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 to reschedule the cases to Feb. 18, 2004.

SPEAKERS: David Silverman, attorney for appellant, requested a rescheduling to a meeting with a full Board. Jonas Ionin, PD, had no objection to the request.

There being no further business, President Harrington adjourned the meeting at 7:34 p.m.

Kathleen Harrington

Kathleen Harrington, President

Robert H Feldman

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

Board of Appeals

February 18, 2004

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, FEBRUARY 18, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONER COMMENTS & QUESTIONS:

(3) ADOPTION OF BUDGET:

(4) SPECIAL ITEM(S):

Presentation by Planning Dept. staff of the recently adopted Temporary Residential Demolition Policy.

ITEMS (5A), (5B) & (5C) SHALL BE HEARD TOGETHER:

(5A) APPEAL NO. 03-147

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street. Appealing the denial on September 26, 2003, of Permit to Demolish a Building (two-story single family house with 1,316sf of ground floor area). APPLICATION NO. 2002/07/15/1446. FOR HEARING TODAY.

(5B) **APPEAL NO. 03-148**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building B). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1437S. FOR HEARING TODAY.

(5C) **APPEAL NO. 03-149**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building A). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1442S. FOR HEARING TODAY.

(6) **APPEAL NO. 03-192**

LETICIA & LEOPOLDO REDONDO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	710 Edinburgh Street. Protesting the issuance on November 4, 2003, to Javier Giron, Site Permit to Alter a Building (on single-family house: construct one floor above existing garage as computer room/home office). APPLICATION NO. 2002/08/28/5143S. FOR HEARING TODAY.

(7) **APPEAL NO. 03-193**

PATRICK McDERMOTT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1956-1960 Fell Street. Appealing the denial on November 14, 2003, of a Permit to Convert (from 8 residential guest rooms and 1 dwelling unit into 3 dwelling units). FOR HEARING TODAY.

(8) **APPEAL NO. 03-194**

ARA & BERG TEHLIRIAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL DR Requestor(s): JOSE MORALES	572 San Jose Avenue. Appealing the denial on November 21, 2003, of a Site Permit to Alter a Building a Building (on two-unit building: horizontal and vertical addition, 335sf on ground floor, 368sf on 2nd floor, and 1038sf on 3rd floor; electrical, plumbing, and mechanical under separate permit). APPLICATION NO. 2002/11/04/0682S. FOR HEARING TODAY.

(9) **APPEAL NO. V03-207**

CYNTHIA GISSLER, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2717 Baker Street. Protesting the granting on December 16, 2003, to David Nolan (Subject Property Owners Gene & Judy Dale), Rear Yard & Non-Complying Structure Variance(s) (construction of an approximately 850sf 3rd-story addition with adjacent roof deck above the 2-story single-family house, but without the roof deck proposed for the roof of the 3rd-story addition, without the exterior stairs connecting the 3rd-story deck to the roof of the 3rd-story addition, and without the stair penthouse on the roof of the 3rd-story addition). VARIANCE CASE NO. 2001.1072V.

	FOR HEARING TODAY.

(10) **APPEAL NO. V03-208**

DAVID CANNON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2 Ord Court. Protesting the granting on Dec. 18, 2003, to Charlie Barnett (Subject Property Owner Fredric Silverman), Rear Yard Variance (construction of a new 2nd-story, vertical addition for the existing single-family house). VARIANCE CASE NO. 2003.0828V. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: February 12th, 2004

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, FEBRUARY 18, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, Commissioner Sabrina Saunders, and Commissioner Douglas Shoemaker.

Catharine Barnes, Deputy City Attorney (DCA); Craig Nikitas, Acting Zoning Administrator (AZA); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: Tom Katz explained his problem with window replacement permits.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

SPEAKERS: None.

(3) ADOPTION OF BUDGET:

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to adopt the proposed budget for FY 2004-2005.

SPEAKERS: None.

(4) SPECIAL ITEM(S):

Presentation by Planning Dept. staff of the recently adopted **Temporary Residential Demolition Policy**.

SPEAKERS: Patricia Vaughey expressed her concern with the policy and said it had been written by a permit consultant.

ITEMS (5A), (5B) & (5C) SHALL BE HEARD TOGETHER:

(5A) **APPEAL NO. 03-147**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street. Appealing the denial on September 26, 2003, of Permit to Demolish a Building (two-story single family house with 1,316sf of ground floor area). APPLICATION NO. 2002/07/15/1446. FOR HEARING TODAY.

(5B) **APPEAL NO. 03-148**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building B). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1437S. FOR HEARING TODAY.

(5C) **APPEAL NO. 03-149**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building A). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1442S. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 3-0-2 (Commissioners Shoemaker and Saunders absent) to reschedule the cases to Feb. 25, 2004.

SPEAKERS: David Silverman, attorney for appellant, requested a rescheduling to a meeting with a full Board.

(6) **APPEAL NO. 03-192**

LETICIA & LEOPOLDO REDONDO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	710 Edinburgh Street. Protesting the issuance on November 4, 2003, to Javier Giron, Site Permit to Alter a Building (on single-family house: construct one floor above existing garage as computer room/home office). APPLICATION NO. 2002/08/28/5143S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board vote 4-0-1 (Commissioner Saunders absent) to uphold the permit on condition that no construction take place on the 2nd level of the garage, and on condition that on the rear of the building the exit from the bathroom to the roof deck be eliminated.

SPEAKERS: Leticia Redondo, appellant, described the project and said it appears to be for the creation of an illegal unit in this one-family zoning district. Corazon Meterparel, agent for permit holder, described the addition and the 3 foot light well that is being provided to accommodate the appellants, and that the building will be up to code once the work is done. Craig Nikitas, AZA, explained the non-conforming character of the building and how the project is affected by the rear yard regulations. Public comment for appellants: Michael Hutchinson said he is a contractor, and said he reviewed the project and it seems wrong; he noted the building had been a crack house. No public comment for permit holder. Ronnie Perez, owner, said this is his first property and that he is excited to be doing the project. Craig Nikitas, AZA, said the project meets the Code.

(7) **APPEAL NO. 03-193**

PATRICK McDERMOTT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1956-1960 Fell Street. Appealing the denial on November 14, 2003, of a Permit to Convert (from 8 residential guest rooms and 1 dwelling unit into 3 dwelling units). FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 3-1-1 (Vice President Sugaya dissented, Commissioner Saunders absent) to continue the case to March 3, 2004.

SPEAKERS: Laurence Kornfield, CBI DBI, reported on his discussion with Chief Housing Inspector Rosemary Bosque, who was unable to attend but would if requested to by the Board. Catharine Barnes, DCA, advised as to the impact of the Ellis Act on the appeal. John Baba, attorney for appellant, ecplained the effect of the Ellis Act filing by his client on the permit, and described the case law which he said supports his case. No public comment.

(8) **APPEAL NO. 03-194**

ARA & BERG TEHLIRIAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL DR Requestor(s): JOSE MORALES	572 San Jose Avenue. Appealing the denial on November 21, 2003, of a Site Permit to Alter a Building a Building (on two-unit building: horizontal and vertical addition, 335sf on ground floor, 368sf on 2nd floor, and 1038sf on 3rd floor; electrical, plumbing, and mechanical under separate permit). APPLICATION NO. 2002/11/04/0682S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders) to continue the case to March 3, 2004 with the public hearing closed.

SPEAKERS: Craig Nikitas, AZA, explained the reasons why the Planning Commission denied the subject permit. Ara Tehlirian, co-appellant, gave the history of his efforts to obtain a permit. He said that the Commission's only concern was the working out of the rent issue by the parties. He said that he suggested that Mr. Morales get a roommate and apply for Sec. 8 housing vouchers so he can live as he wants. Jim Fay, representing DR Requestor Jose Morales, described the significant work planned for the building which will displace Mr. Morales who needs to live in an affordable unit and wants to stay where he is. Jose Morales, DR Requestor, said he deserves protection so that he can keep his apartment. Public comment for Planning Commission: Ted Gullicksen of the Tenants Union said the apartment will be demolished and Mr. Morales will become homeless and that a new building should be kept under the rent ordinance. Eric Quezada said the project results in the loss of affordable housing. Terrie Frye urged the Board to protect the community from the loss of affordable housing. Steven Shubert of the Tenants Union said it is City policy to prohibit the loss of affordable housing. Amy Balint urged that Mr. Morales be protected from the loss of his home. Charlie Sciammas said there is an affordable housing crisis. Jose Corona urged the Board to uphold the Commission's decision. Terri Morell said he was withdrawing her support of the appellant, and is now neutral. Lora Traveler read a poem into the record and strongly urged the Board to uphold the denial. Edwin Lindo requested that the denial be upheld.

(9) **APPEAL NO. V03-207**

CYNTHIA GISSLER, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2717 Baker Street. Protesting the granting on December 16, 2003, to David Nolan (Subject Property Owners Gene & Judy Dale), Rear Yard & Non-Complying Structure Variance(s) (construction of an approximately 850sf 3rd-story addition with adjacent roof deck above the 2-story single-family house, but without the roof deck proposed for the roof of the 3rd-story addition, without the exterior stairs connecting the 3rd-story deck to the roof of the 3rd-story addition, and without the stair penthouse on the roof of the 3rd-story addition). VARIANCE CASE NO. 2001.1072V. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 3-0-2 (Commissioners Shoemaker and Saunders absent) to reschedule the appeal to March 3, 2004. Then, upon motion by Commissioner Chin, the Board voted 3-0-2 (Commissioners Shoemaker and Saunders absent) to rescind the previous motion. Afterwards, upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the variance on condition that the addition on the 3rd floor be pulled back 3 feet on the Baker Street side.

SPEAKERS: Fred Campagnoli, attorney for appellant, described the contacts between the parties and said that compromise was possible but that there has not been a response from the owners. Judy Dale, co-variance holder, said she has met with the neighbors twice but the compromise proposed was not structurally or economically viable. David Nolan, architect for variance holder, said that no agreement had been reached and it was left to the ZA to decide. Gene Dale, co-variance holder, spoke in support of his wife's arguments. Craig Nikitas, AZA, described the decision and said it's justified and the proposed addition is small and appropriate. Public comment for appellants: Patricia Vaughey spoke in support of the appellant. Joseph Perelli said the process was flawed because the ZA had said the variance hearing would reconvene and it never was, with the neighbors left in the dark. Henry Alker described the process as one of ambiguous norms and that a clear decision is needed to cure the situation. Mary Caroline Gissler detailed the effects on the neighbors and her sister's property of the proposed addition and said the shadow created will cause mold on her property. Michael Fraser said the addition will cast a shadow on his reading room, and will block all morning light to his apartment. Karen Laughlin said she rents next door and the project will expand a modest house into a million dollar one. Jo Kennedy said that the stairway is illegal according to an architect and that sunlight in the City is different according to her European friends. Patricia Alker described her plants in detail and said the proposed addition will shadow and kill them. Brian McDonell said the proposed deck will face into his master bedroom, and that there is no sufficient hardship to justify granting the variance.

(10) **APPEAL NO. V03-208**

DAVID CANNON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2 Ord Court. Protesting the granting on Dec. 18, 2003, to Charlie Barnett (Subject Property Owner Fredric Silverman), Rear Yard Variance (construction of a new 2nd-story, vertical addition for the existing single-family house). VARIANCE CASE NO. 2003.0828V. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 3-0-2 (Commissioners Shoemaker and Saunders absent) to reschedule the case to March 3, 2004.

SPEAKERS: None.

There being no further business, President Harrington adjourned the meeting at 9:35 p.m.

Kathleen Harrington

Kathleen Harrington, President

Robert H Feldman

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

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Board of Appeals

February 25, 2004

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, FEBRUARY 25, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

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(1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:**

(3A)**REHEARING REQUEST:**

Appeal No(s). 02-030; 50 - 8th Street; Foster Media vs. Zoning Administrator

Letter from Christopher Moscone, agent for Foster Media, Appellant, requesting rehearing of Appeal No(s). 02-030, decided June 19, 2002. Upon motion by Vice President McInerney, the Board voted 2-3 (Commissioners Cullum, Saunders & El Qadah dissented) to uphold the subject determination. Four votes being necessary to overturn any departmental action under Charter § 4.106, the subject determination was upheld. Determination: that the subject Building Permit Application for a general advertising sign is disapproved because the subject property is visible from, and located within 200 feet of the Market Street Special Sign District.

(3B) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 239 Greenwich St; Permit issued on Oct. 6, 2003

Last day to appeal was Oct. 21, 2003; Jurisdiction request received on Dec. 3, 2003

Letter from John Cowen, asking that the Board take jurisdiction over Building Permit Application No(s). 2003/10/06/6615. Project: on single family house, stair way, 4' wide, not more than 30" above grade, on deeded and recorded easement. Permit Holder(s): Terrance Forgette.

ITEMS (4A) & (4B) SHALL BE HEARD TOGETHER:

(4A) **APPEAL NO. V03-205**

JOHN GLUGOSKI, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. FOR HEARING TODAY.

(4B) **APPEAL NO. V03-209**

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. FOR HEARING TODAY.

(5) **APPEAL NO. 03-154**

ULYSSES NAPURI dba "LAST STOP SOUVENIR", Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	498 Beach Street. Appealing the denial on May 5, 2003, of a Sidewalk Display Merchandise Permit. ORDER NO. 174,098. JURISDICTION GRANTED SEPT. 17, 2003. PUBLIC HEARING HELD & CLOSED ON DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 03-117**

GEORGE HAMILTON HAUCK & DUANE FRISBIE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	218 Union Street. Protesting the issuance on July 15, 2003, to John Votruba, Permit to Alter a Building (on 3-story, 7-unit residential building: rebuild upper deck on roof - see NOV No(s). 200336693; new roof ladder). APPLICATION NO. 2003/07/15/9492. FOR HEARING TODAY.

(7) **APPEAL NO. 03-134**

BEN HONG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1223 & 1225 Capitol Avenue. Protesting the issuance on August 18, 2003, to Michael Brown, Permit to Erect a Building (3-story, 2-unit building with 1,544sf of ground floor area). APPLICATION NO. 2002/07/10/1032. FOR HEARING TODAY.

ITEMS (8A), (8B) & (8C) SHALL BE HEARD TOGETHER:

(8A) **APPEAL NO. 03-147**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street. Appealing the denial on September 26, 2003, of Permit to Demolish a Building (two-story single family house with 1,316sf of ground floor area). APPLICATION NO. 2002/07/15/1446. FOR HEARING TODAY.

(8B) **APPEAL NO. 03-148**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building B). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1437S. FOR HEARING TODAY.

(8C) **APPEAL NO. 03-149**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building A). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1442S. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: February 19th, 2004

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, FEBRUARY 25, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, and Commissioner Arnold Chin.

ABSENT: Commissioner Douglas Shoemaker. and Commissioner Sabrina Saunders.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Julian Banales, Senior Planner, Planning Department (SP PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: Laurence Kornfield, CBI DBI, reported on DBI efforts to improve the enforcement procedures for requirements imposed on parties by the Board.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: None.

(3) **ADDENDUM ITEMS:**

(3A) **REHEARING REQUEST:** Appeal No(s). 02-030,
50 – 8th Street
Foster Media vs. Zoning Administrator

Letter from Christopher Moscone, agent for Foster Media, Appellant, requesting rehearing of Appeal No(s). 02-030, decided June 19, 2002. Upon motion by Vice President McInerney, the Board voted 2-3 (Commissioners Cullum, Saunders & El Qadah dissented) to uphold the subject determination. Four votes being necessary to overturn any departmental action under Charter § 4.106, the subject determination was upheld. Determination: that the subject Building Permit Application for a general advertising sign is disapproved because the subject property is visible from, and located within 200 feet of the Market Street Special Sign District.

ACTION: Request withdrawn by the appellant/requestor.

SPEAKERS: None.

(3B) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 239 Greenwich St
Permit issued on Oct. 6, 2003
Last day to appeal was Oct. 21, 2003
Jurisdiction request received on Dec. 3, 2003

Letter from John Cowen, asking that the Board take jurisdiction over Building Permit Application No(s). 2003/10/06/6615. Project: on single family house, stair way, 4' wide, not more than 30" above grade, on deeded and recorded easement. Permit Holder(s): Terrance Forgette.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 3-0-2 (Commissioners Shoemaker & Saunders absent) to reschedule the request to March 24, 2004.

SPEAKERS: John Cowen, requestor, and Terrance Forgette, permit holder, responded to Board inquiries about available dates for rescheduling since the Board lacked a quorum and could not conduct hearings.

ITEMS (4A) & (4B) SHALL BE HEARD TOGETHER:

(4A) **APPEAL NO. V03-205**

JOHN GLUGOSKI, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. FOR HEARING TODAY.

(4B) APPEAL NO. V03-209

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 3-0-2 (Commissioners Shoemaker & Saunders absent) to reschedule the appeals to March 24, 2004.

SPEAKERS: Chris Moscone, attorney for Catherine & Anne Ferreira, John Glugoski, appellant, and Jay Capela, co-variance holder, responded to Board inquiries about available dates for rescheduling since the Board lacked a quorum and could not conduct hearings.

(5) APPEAL NO. 03-154

ULYSSES NAPURI dba "LAST STOP SOUVENIR", Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	498 Beach Street. Appealing the denial on May 5, 2003, of a Sidewalk Display Merchandise Permit. ORDER NO. 174,098. JURISDICTION GRANTED SEPT. 17, 2003. PUBLIC HEARING HELD & CLOSED ON DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 3-0-2 (Commissioners Shoemaker & Saunders absent) to reschedule the appeal to April 28, 2004 at the prior written request of the parties.

SPEAKERS: None.

(6) **APPEAL NO. 03-117**

GEORGE HAMILTON HAUCK & DUANE FRISBIE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	218 Union Street. Protesting the issuance on July 15, 2003, to John Votruba, Permit to Alter a Building (on 3-story, 7-unit residential building: rebuild upper deck on roof – see NOV No(s). 200336693; new roof ladder). APPLICATION NO. 2003/07/15/9492. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 3-0-2 (Commissioners Shoemaker & Saunders absent) to reschedule the appeal to April 28, 2004.

SPEAKERS: Teresa Votruba, wife of permit holder, and George Hamilton Hauck, co-appellant, responded to Board inquiries about available dates for rescheduling since the Board lacked a quorum and could not conduct hearings.

(7) **APPEAL NO. 03-134**

BEN HONG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1223 & 1225 Capitol Avenue. Protesting the issuance on August 18, 2003, to Michael Brown, Permit to Erect a Building (3-story, 2-unit building with 1,544sf of ground floor area). APPLICATION NO. 2002/07/10/1032. FOR HEARING TODAY.

ACTION: Appeal withdrawn by the appellant prior to the meeting.

SPEAKERS: None.

ITEMS (8A), (8B) & (8C) SHALL BE HEARD TOGETHER:

(8A) **APPEAL NO. 03-147**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street. Appealing the denial on September 26, 2003, of Permit to Demolish a Building (two-story single family house with 1,316sf of ground floor area). APPLICATION NO. 2002/07/15/1446. FOR HEARING TODAY.

(8B) **APPEAL NO. 03-148**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building B). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1437S. FOR HEARING TODAY.

(8C) **APPEAL NO. 03-149**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building A). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1442S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 3-0-2 (Commissioners Shoemaker & Saunders absent) to reschedule the appeals to March 31, 2004 at the prior written request of the parties.

SPEAKERS: None.

There being no further business, President Harrington adjourned the meeting at 5:20 p.m.

Kathleen Harrington

Kathleen Harrington, President

Robert H Feldman

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, MARCH 3, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT**:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS**:

(3) **ADDENDUM ITEMS**: None.

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(4) **APPEAL NO. 03-190**

TOM KATZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	616 Shrader Street. Appealing the suspension on August 6, 2003, of Building Permit Application No(s). 2003/08/06/1364 & 2003/07/23/0191. Reason(s) for suspension: the first permit was approved erroneously, and the second permit requires further review by the Planning Dept. since both permits did not receive residential guideline review by Planning Dept. preservation technical specialists, which is required for the replacement of windows on architecturally significant buildings like the subject property. JURISDICTION GRANTED NOV. 12, 2003. PUBLIC HEARING HELD & CLOSED ON FEB. 11, 2004. FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. 03-193**

PATRICK McDERMOTT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1956-1960 Fell Street. Appealing the denial on November 14, 2003, of a Permit to Convert (from 8 residential guest rooms and 1 dwelling unit into 3 dwelling units). PUBLIC HEARING HELD & CLOSED ON FEB. 18, 2004. FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 03-194**

ARA & BERG TEHLIRIAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL DR Requestor(s): JOSE MORALES	572 San Jose Avenue. Appealing the denial on November 21, 2003, of a Site Permit to Alter a Building a Building (on two-unit building: horizontal and vertical addition, 335sf on ground floor, 368sf on 2^{nd} floor, and 1038sf on 3^{rd} floor; electrical, plumbing, and mechanical under separate permit). APPLICATION NO. 2002/11/04/0682S. PUBLIC HEARING HELD & CLOSED ON FEB. 18, 2004. FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 04-004**

TOBIN HANSEN, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	2500 Market Street. Appealing the denial on December 26, 2003, of a Permit to Remove & Replace One (1) Tree. ORDER NO. 174,572 FOR HEARING TODAY.

(8) **APPEAL NO. V03-208**

DAVID CANNON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2 Ord Court. Protesting the granting on Dec. 18, 2003, to Charlie Barnett (Subject Property Owner Fredric Silverman), Rear Yard Variance (construction of a new 2^{nd}-story, vertical addition for the existing single-family house). VARIANCE CASE NO. 2003.0828V. FOR HEARING TODAY.

(9) **APPEAL NO. 04-001**

CHRISTOPHER & JAMIE ZAK, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	293 Downey Street. Protesting the issuance on December 24, 2003, to Kirk Scott, Site Permit to Alter a Building (on single-family house: horizontal addition at rear, basement, first and second stories; interior remodel; addition of bay window at front and alteration to front façade; add one dwelling unit). APPLICATION NO. 2001/11/21/3668S. FOR HEARING TODAY.

(10) **APPEAL NO. 04-003**

JOHN HOOPER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	7 Buena Vista Terrace. Protesting the issuance on December 23, 2003, to Andrea Chavez & Dan Putterman, Permit to Demolish a Building (2-story, 2-family residential building with 2,166sf of ground floor area). APPLICATION NO. 2003/02/26/8353. FOR HEARING TODAY.

(11) **APPEAL NO. 04-005**

JIMMY CHU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	425 Junipero Serra Boulevard. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Jan. 5, 2004, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that Building Permit Application No(s). 2003/02/13/7355, 2003/05/17/4558 and 2003/06/20/7261 are hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. FOR HEARING TODAY.

(12) **APPEAL NO. 04-006**

SANJAY BHAS dba BAYVIEW GREENWASTE MANAGEMENT COMPANY, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1300 Carroll Avenue. Appealing a determination dated January 13, 2004, addressed to Sanjay Bhas, disapproving a Health Permit Application Zoning Referral for a wood transferring, wood and landscaping waste chipping, mulching and transfer facility at the subject property, located within an M-1 zoning district, because Planning Code § 202(c) precludes any use in the M-1 zoning district that creates conditions which are hazardous, noxious or offensive through emissions of odor, smoke, fumes or dust, and because Planning Code § 225(o) and (d) prohibit storage of waste, discarded, or salvaged material or inflammable materials in the M-1 zoning district unless it's conducted within a completely closed building. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: February 26th, 2004

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
ARNOLD Y.K. CHIN	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**
DOUGLAS SHOEMAKER	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

ecord and will be brought to the attention of the Board at the public hearing. For complete distribution to ll Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

ursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or levelopment permit, you may be limited to raising only those issues you or someone else raised at the ublic hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, r prior to, the public hearing.

alendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken ut of order to accommodate special needs. The Board urges all parties to be present in the hearing oom from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

he ringing of and use of cell phones, pagers and similar sound-producing electronic devices are rohibited at this meeting. Please be advised that the Chair may order the removal from the meeting oom of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-roducing electronic devices.

ACCESSIBILITY INFORMATION

merican sign language interpreters and/or sound enhancement system will be available upon request by ontacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe llergies, environmental illness, multiple chemical sensitivity or related disabilities should call the ccessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to ccommodate such people, attendees at public meetings are reminded that other attendees may be ensitive to various chemical-based products. Please help the City to accommodate these individuals. he closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde nd Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. ccessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega nd the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

overnment's duty is to serve the public, reaching its decisions in full view of the public. Commissions, oards, councils and other agencies of the City and County exist to conduct the people's business. This rdinance assures that deliberations are conducted before the people and that City operations are open to he people's review.

or more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco dministrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task orce: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett lace, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail onna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the unshine Task Force, the San Francisco Public Library, and on the City's website at ww.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

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CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MARCH 3, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, Commissioner Sabrina Saunders, and Commissioner Douglas Shoemaker.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Craig Nikitas, Acting Zoning Administrator (AZA); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI DBI); Tony Wolcott, Acting Urban Forester, Dept. of Public Works Bureau of Urban Forestry (AUF, DPW BUF); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: None.

(3) **ADDENDUM ITEMS:** None.

(4) **APPEAL NO. 03-190**

TOM KATZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	616 Shrader Street. Appealing the suspension on August 6, 2003, of BPA Nos. 2003/08/06/1364 & 2003/07/23/0191. Reason(s) for suspension: the 1st permit was approved erroneously, and the 2nd permit requires further review by the Planning Dept. since both permits did not receive residential guideline review by Planning Dept. preservation technical specialists, which is required for the replacement of windows on architecturally significant buildings like the subject property. JURISDICTION GRANTED 11/12/03. PUBLIC HEARING HELD & CLOSED ON 2/11/04. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-1 (Commissioner Sugaya dissented) to continue the appeal to March 31, 2004.

SPEAKERS: Tom Katz responded to questions and explained how he had obtained a permit for replacing the subject windows. Craig Nikitas, AZA, said the department has been duped in this case by a contractor who had shopped around for a planner who would approve his permit, and that he had told one planner that another had approved the application when in fact the planner had not; he explained the terms used in the review of window replacements. Paul Delson, attorney for appellant, explained that a planner had approved the application, and he quoted the planner; he said the work was done with a permit. No public comment.

(5) APPEAL NO. 03-193

PATRICK McDERMOTT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1956-1960 Fell Street. Appealing the denial on November 14, 2003, of a Permit to Convert (from 8 residential guest rooms and 1 dwelling unit into 3 dwelling units). PUBLIC HEARING HELD & CLOSED ON FEB. 18, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 2-3 (Commissioner Shoemaker, Vice President Sugaya and Commissioner Saunders dissented) to overrule the denial of the subject permit. 4 votes being required to overturn any departmental action, the motion failed, and the denial was upheld.

SPEAKERS: Rosemary Bosque, Chief Housing Inspector, DBI HID, explained how the application fails to meet provisions of Chapter 41 of the Administrative Code, the Hotel Conversion Ordinance (HCO). John Baba, attorney for appellant, explained how this application complies with the HCO since it meets an exemption in the amended Ellis Act.

(6) APPEAL NO. 03-194

ARA & BERG TEHLIRIAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL DR Requestor(s): JOSE MORALES	572 San Jose Avenue. Appealing the denial on November 21, 2003, of a Site Permit to Alter a Building a Building (on two-unit building: horizontal and vertical addition, 335sf on ground floor, 368sf on 2nd floor, and 1038sf on 3rd floor; electrical, plumbing, and mechanical under separate permit). APPLICATION NO. 2002/11/04/0682S. PUBLIC HEARING HELD & CLOSED ON FEB. 18, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 3-2 (Commissioner Shoemaker and Vice President Sugaya dissented) to overrule the denial and grant the permit with conditions as presented by the appellant. 4 votes being required to overrule a departmental action, the denial of the subject permit was upheld.

SPEAKERS: Ara Tehlirian, co-appellant, described his efforts to meet with the tenant to negotiate a settlement, and then he summarized the offer he had made. Jose Morales, DR Requestor and tenant, explained how he feels the owner is perpetuating a scam with the project and the offer. Jim Faye, former agent for Mr. Morales, said he read the offer which includes some items that were before the Commission. Catharine Barnes, DCA OCA, responded to Board questions about enforcement of conditions proposed by the appellant. She said they are a problem frequently and the Board may impose conditions as it sees fit. No public comment.

(7) APPEAL NO. 04-004

TOBIN HANSEN, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	2500 Market Street. Appealing the denial on December 26, 2003, of a Permit to Remove & Replace One (1) Tree. ORDER NO. 174,572 FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to uphold the subject denial due to the non-appearance of the appellant.

SPEAKERS: Tony Wolcott, AUF, DPW BUF, explained that the tree is in good shape, and appropriate among other Chinese elms in the area. Appellant did not appear. Victor Pacheco, Legal Assistant, explained the notice procedures used in this case to inform the appellant of the time and place of hearing for his appeal. No public comment.

(8) APPEAL NO. V03-208

DAVID CANNON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2 Ord Court. Protesting the granting on Dec. 18, 2003, to Charlie Barnett (Subject Property Owner Fredric Silverman), Rear Yard Variance (construction of a new 2nd-story, vertical addition for the existing single-family house). VARIANCE CASE NO. 2003.0828V. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 5-0 to reschedule the appeal to March 31, 2004 at the prior written request of the parties.

SPEAKERS: None.

(9) APPEAL NO. 04-001

CHRISTOPHER & JAMIE ZAK, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	293 Downey Street. Protesting the issuance on December 24, 2003, to Kirk Scott, Site Permit to Alter a Building (on single-family house: horizontal addition at rear, basement, first and second stories; interior remodel; addition of bay window at front and alteration to front façade; add one dwelling unit). APPLICATION NO. 2001/11/21/3668S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Chris Zak, co-appellant, explained how the project will block his window and the broad view of the City he presently enjoys through it; he also said he has concerns over loss of privacy. Kirk Scott, permit holder, summarized the procedure regarding property line windows and said his project will have a reasonable and minimal impact on the appellants. Craig Nikitas, appellant, said that this is an excellent proposal, which has been approved by the Planning Commission after two DR hearings. Laurence Kornfield, CBI DBI, said that he agreed with the earlier testimony of the AZA and of the permit holder as to the procedure for property line windows. No public comment.

(10) APPEAL NO. 04-003

JOHN HOOPER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	7 Buena Vista Terrace. Protesting the issuance on December 23, 2003, to Andrea Chavez & Dan Putterman, Permit to Demolish a Building (2-story, 2-family residential building with 2,166sf of ground floor area). APPLICATION NO. 2003/02/26/8353. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0 to recuse Vice President Sugaya. Afterwards, the Board voted 4-0-1 (Vice President Sugaya recused) to uphold the subject permit with findings as read into the record by Commissioner Chin.

SPEAKERS: Steve Williams, attorney for appellant, described the complicated permit history of the project and asked the Board to send the permit back to the Planning Commission to straighten it all out and bring it into compliance with the Code; he said that there had been no merger in 1997 because it was impossible. Alice Barkley, attorney for permit holder, described the tortured permit history and said the neighbors welcome the project, which will complete work begun many years ago and will now be completed as a one-family house for the permit holder and his family; she said that a demolition permit is actually not required under the circumstances, and that the properties have been merged, making a one-family house. Craig Nikitas, AZA, said the Planning

Commission did not have a policy of mandatory DR for merger applications until 2000, and that no demolition permit is required in this case. Public comment for permit holder: John Sanger for a neighbor said he is in full support of the project and that this action of the Board is the last link in the chain of review of the proposal. Boris Dramov said the project has been abandoned for 7 years and is a derelict, which should have been removed long ago with its flapping tar paper and billowing tarps. Bonnie Fisher said the building is hazardous and she urged the Board to uphold the permit. Robert Schuman said homeless people have used the open house, and that it cost him $40,000 to make repairs of damages caused by pigeons in the property causing blockage to his drains. No public comment for appellant.

(11) APPEAL NO. 04-005

JIMMY CHU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	425 Junipero Serra Boulevard. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Jan. 5, 2004, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that Building Permit Application No(s). 2003/02/13/7355, 2003/05/17/4558 and 2003/06/20/7261 are hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to reschedule the appeal to April 28, 2004 at the prior written request of the parties.

SPEAKERS: None.

(12) **APPEAL NO. 04-006**

SANJAY BHAS dba BAYVIEW GREENWASTE MANAGEMENT COMPANY, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1300 Carroll Avenue. Appealing a determination dated January 13, 2004, addressed to Sanjay Bhas, disapproving a Health Permit Application Zoning Referral for a wood transferring, wood and landscaping waste chipping, mulching and transfer facility at the subject property, located within an M-1 zoning district, because Planning Code § 202(c) precludes any use in the M-1 zoning district that creates conditions which are hazardous, noxious or offensive through emissions of odor, smoke, fumes or dust, and because Planning Code § 225(o) and (d) prohibit storage of waste, discarded, or salvaged material or inflammable materials in the M-1 zoning district unless it's conducted within a completely closed building. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to overrule the subject determination with a finding that the risk of fire is minimal, and that this type of business is appropriate in the M-1 zoning district.

SPEAKERS: Craig Nikitas, AZA, explained the determination and the inconsistency of the business under the Code; he said he now has additional information and is comfortable with the business on this site. Jeremy Paul, agent for appellant, described the advantages to the City of approving this business which serves the landscapers of the City and is an appropriate use; he showed samples of the materials handled at the facility and the five permits for equipment obtained from the Bay Area Air Quality Management District. Henry Louie of DPH said this is a solid waste issue under his jurisdiction and he referred the application to Planning for review as required under the State Administrative Code, Title 14. Laurence Kornfield, CBI DBI, suggested conditions if the Board granted the permit to insure safety. No public comment.

There being no further business, President Harrington adjourned the meeting at 8:15 p.m.

Kathleen Harrington

Kathleen Harrington, President

Robert H Feldman

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, MARCH 10, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:**

(3A) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 945 Darien Way
Request to suspend permit dated Oct. 1, 2003
Last day to appeal was Oct. 16, 2003
Jurisdiction request received on Dec. 8, 2003

Letter from Nina Guralnik, requestor(s), asking that the Board take jurisdiction over a request by the Acting Zoning Administrator to suspend Building Permit Application No(s). 2003/08/05/1215. Reason(s) for requesting suspension: subject permit was approved erroneously over-the-counter by the Planning Department, and a subsequent review of the architectural plans revealed that this permit was taken out to construct an illegal guesthouse in the existing garage space, rather than to repair fire damage as stated on the permit application.

ITEMS (4A) & (4B) SHALL BE HEARD TOGETHER:

(4A) **APPEAL NO. 03-051**

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing the determination dated March 19, 2003, addressed to Andrew Zacks, that the subject property has a legal authorized use of 14 residential guest rooms and 1 dwelling unit, that residential guest rooms constitute "group housing" under § 209.2 of the Planning Code, that this group housing constitutes a permitted conditional use since it was established prior to the enactment of Conditional Use (CU) requirements for said use, and that this permitted conditional use shall be considered abandoned 3 years from the last legal date of residency of the last resident of said guest rooms. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

(4B) **APPEAL NO. 03-066**

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing a determination dated April 24, 2003, addressed to Andrew Zacks, that the proposed physical modifications to various residential guest rooms at the subject property would result in less viable guest rooms and would constitute a partial conversion of the structure to single family-use from its current legal authorized use of 14 residential guest rooms and 1 dwelling unit, in violation of Planning Code. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. 03-150**

JESSIEKA DETRINIDAD, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	737 Pine Street. Appealing a determination dated July 7, 2003, addressed to Niall MacCormack, that the proposed conversion of storage space to a dwelling unit in this 39-unit apartment building would constitute an intensification of a legal non-conforming use, which is prohibited under Planning Code § 181(a). JURISDICTION GRANTED SEPT. 17, 2003. PUBLIC HEARING HELD DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

(6) APPEAL NO. 02-020

DAVID ADAMS, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the denial on January 30, 2002, of a request to add the appellant's name to taxicab medallion no(s). 129. **NOTE:** On Jan. 15, 2003, the Board voted to dismiss the case for lack of subject matter jurisdiction. Then, pursuant to Superior Court Case No(s). CPF-03-502454, the Board vacated its dismissal of Jan. 15, 2003 and granted the appellant a hearing on the merits on June 25, 2003, at which time the Board upheld the action of the Taxi Commission. On Feb. 4, 2004, the Board voted to grant the rehearing request by the appellant, and to schedule the rehearing for March 10, 2004. FOR REHEARING TODAY.

(7) APPEAL NO. 03-044

JOHN ARKEDER, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on March 19, 2003, of taxicab medallion No. 1167. RESOLUTION NO. 2003-09. FOR HEARING TODAY.

(8) APPEAL NO. 03-052

LANDO SIU, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on March 25, 2003, of taxicab medallion #1181. RESOLUTION NO. 2003-12. **NOTE:** At the original hearing of June 4, 2003, the Board voted to uphold the subject revocation. On September 17, 2003, the Board voted to grant the jurisdiction request seeking a second 10-day rehearing request period; the Board also voted that same day to grant the rehearing request. FOR REHEARING TODAY.

(9) **APPEAL NO. 03-068**

JAMES NEILLY, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on April 23, 2003, of medallion No. 897. RESOLUTION NO. 2003-26. FOR HEARING TODAY.

(10) **APPEAL NO. 04-007**

JUDITH BERKOWITZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	3358 Cesar Chavez Street. Protesting the issuance on Dec. 31, 2003, to La Raza Centro Legal, Permit to Alter a Building (on two-unit residential / office building: provide accessible entry and lateral strengthening of building façade via a new glass storefront at ground level only; provide ramp to connect both levels of ground floor (21" elevation difference) and accessible unisex restroom; flooring, lighting, heating upgrades; change of use; mechanical/lighting under separate permit). APPLICATION NO. 2002/05/23/7284. FOR HEARING TODAY.

(11) **APPEAL NO. 04-008**

SERVELINA CONDE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	155 Ellington Street. Protesting the issuance on January 12, 2004, to Conrad Navarro, Permit to Alter a Building (on single-family house: comply with complaint no. 200446665; foundation revision to Building Permit Application No. 2003/12/02/1393). APPLICATION NO. 2004/01/12/3781. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: March 4, 2004

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
ARNOLD Y.K. CHIN	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**
DOUGLAS SHOEMAKER	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

ecord and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when t is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MARCH 10, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, Commissioner Sabrina Saunders, and Commissioner Douglas Shoemaker.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Jonas Ionin, Senior Planner, Planning Departmnet (SP, PD); Leo McFadden, Senior Building Inspector, Dept. of Building Inspection (SBI DBI); Naomi Little, Executive Director, Taxi Commission (ED, TC); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

SPEAKERS: None.

(3) ADDENDUM ITEMS:

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(3A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 945 Darien Way
Request to suspend permit dated Oct. 1, 2003
Last day to appeal was Oct. 16, 2003
Jurisdiction request received on Dec. 8, 2003

Letter from Nina Guralnik, requestor(s), asking that the Board take jurisdiction over a request by the Acting Zoning Administrator to suspend Building Permit Application No(s). 2003/08/05/1215. Reason(s) for requesting suspension: subject permit was approved erroneously over-the-counter by the Planning Department, and a subsequent review of the architectural plans revealed that this permit was taken out to construct an illegal guesthouse in the existing garage space, rather than to repair fire damage as stated on the permit application.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to reschedule the appeal to March 31, 2004 at the prior written request of the parties.

SPEAKERS: None.

ITEMS (4A) & (4B) SHALL BE HEARD TOGETHER:

(4A) **APPEAL NO. 03-051**

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing the determination dated March 19, 2003, addressed to Andrew Zacks, that the subject property has a legal authorized use of 14 residential guest rooms and 1 dwelling unit, that residential guest rooms constitute "group housing" under § 209.2 of the Planning Code, that this group housing constitutes a permitted conditional use since it was established prior to the enactment of Conditional Use (CU) requirements for said use, and that this permitted conditional use shall be considered abandoned 3 years from the last legal date of residency of the last resident of said guest rooms. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

(4B) **APPEAL NO. 03-066**

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing a determination dated April 24, 2003, addressed to Andrew Zacks, that the proposed physical modifications to various residential guest rooms at the subject property would result in less viable guest rooms and would constitute a partial conversion of the structure to single family-use from its current legal authorized use of 14 residential guest rooms and 1 dwelling unit, in violation of Planning Code. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to reschedule the appeal to May 12, 2004 at the prior written request of the parties.

SPEAKERS: None.

(5) **APPEAL NO. 03-150**

JESSIEKA DETRINIDAD, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	737 Pine Street. Appealing a determination dated July 7, 2003, addressed to Niall MacCormack, that the proposed conversion of storage space to a dwelling unit in this 39-unit apartment building would constitute an intensification of a legal non-conforming use, which is prohibited under Planning Code § 181(a). JURISDICTION GRANTED SEPT. 17, 2003. PUBLIC HEARING HELD DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to overrule the subject determination with the following findings: a) that the correct number of units is 40; b) that this 40th unit was the original housekeeping/janitorial unit from 1929; and c) that national registry/landmark rules support the relaxing of zoning/density requirements so as to preserve historic buildings.

SPEAKERS: Leo McFadden, SBI DBI, reported on his review of the permit history and said the building was constructed in 1929 with the unit and DBI considers the unit as existing and legal. Jonas Ionin, SP PD, said the unit can't be legalized because the unit was changed to storage use by permit and cannot be reinstalled under density limits. Public comment for appellant: Gordon Bennett said he supports the legalization of the unit.

(6) **APPEAL NO. 02-020**

DAVID ADAMS, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the denial on January 30, 2002, of a request to add the appellant's name to taxicab medallion no(s). 129. **NOTE:** On Jan. 15, 2003, the Board voted to dismiss the case for lack of subject matter jurisdiction. Then, pursuant to Superior Court Case No(s). CPF-03-502454, the Board vacated its dismissal of Jan. 15, 2003 and granted the appellant a hearing on the merits on June 25, 2003, at which time the Board upheld the action of the Taxi Commission. On Feb. 4, 2004, the Board voted to grant the rehearing request by the appellant, and to schedule the rehearing for March 10, 2004. FOR REHEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-1 (Vice President Sugaya dissented) to overrule the Taxi Commission and allow the appellant's name to be added to the subject medallion with a finding that the record indicates an intent by Mary Adams to add the appellant's name to the subject medallion.

SPEAKERS: Naomi Little, ED TC, explained the denial by the Commission and gave a history of the medallion's ownership. John Feldman III, attorney for appellant, gave his arguments in support of overruling the Commission and allowing the appellant's name to be added to the medallion. Inspector Farrell Suslow, PD TD, explained the procedures involved. Public comment for Taxi Commission: Mark Gruberg urged the Board to uphold the action of the Commission base don the facts. Public comment for appellant: John Fried said it's ridiculous to accuse the medallion holder of criminal activity since she was trying to get her son's name on the medallion. Fred Naranjo said he has had a business relationship with Luxor for many years and that they are very reliable. Richard Benjamin said he knows the appellant's family and that they have always been in the taxi business.

(7) APPEAL NO. 03-044

JOHN ARKEDER, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on March 19, 2003, of taxicab medallion No. 1167. RESOLUTION NO. 2003-09. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 5-0 to reschedule the appeal to April 28, 2004.

SPEAKERS: Geoffrey Rotwein, attorney for appellant, asked for a rescheduling of the appeal. Naomi Little, ED TC, did not object to the rescheduling request.

(8) APPEAL NO. 03-052

LANDO SIU, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on March 25, 2003, of taxicab medallion #1181. RESOLUTION NO. 2003-12. **NOTE:** At the original hearing of June 4, 2003, the Board voted to uphold the subject revocation. On September 17, 2003, the Board voted to grant the jurisdiction request seeking a second 10-day rehearing request period; the Board also voted that same day to grant the rehearing request. FOR REHEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 5-0 to reschedule the appeal to April 28, 2004 at the prior written request of the parties.

SPEAKERS: None.

9) **APPEAL NO. 03-068**

JAMES NEILLY, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on April 23, 2003, of medallion No. 897. RESOLUTION NO. 2003-26. FOR HEARING TODAY.

CTION: Upon motion by Commissioner Chin, the Board voted 5-0 to overrule the subject evocation with the following conditions: a) that the medallion be suspended for 3 months; b) that he appellant submit waybills to the Police Dept.'s Taxi Detail on a quarterly basis for 3 years and if he full-time driving requirement is not met, the medallion shall automatically be revoked, and with a finding that there's insufficient evidence to support the revocation.

SPEAKERS: Naomi Little, ED TC, explained why the Commission revoked the medallion and said hat recently the shift requirement has been met and that legislation is now at the Board of Supervisors to amend penalties for failure to meet the driving requirements. Geoffrey Rotwein, attorney for appellant, said his client is contrite and now meets the driving requirement. James Neilly, appellant, admitted his error and asked the Board to reinstate his medallion. Public comment for Taxi Commission: Mark Gruberg said that overruling the Commission will send the wrong message to medallion holders about the Board's support of the Commission's decisions. Barry Taranto said he has a neutral position based on speaking to drivers at National and the fact hat the appellant admits his error and now meets the requirements. Public comment for appellant: Dan Hines said the appellant is an asset to National Cab Company and the taxi industry.

(10) **APPEAL NO. 04-007**

JUDITH BERKOWITZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	3358 Cesar Chavez Street. Protesting the issuance on Dec. 31, 2003, to La Raza Centro Legal, Permit to Alter a Building (on two-unit residential / office building: provide accessible entry and lateral strengthening of building façade via a new glass storefront at ground level only; provide ramp to connect both levels of ground floor (21" elevation difference) and accessible unisex restroom; flooring, lighting, heating upgrades; change of use; mechanical/lighting under separate permit). APPLICATION NO. 2002/05/23/7284. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 4-1 (President Harrington dissented) to uphold the subject permit.

SPEAKERS: Judith Berkowitz, appellant, said she opposes the project because the proposed facility is too small for the number of people it will serve, and will be out of character with the neighborhood. Monica Garcia, agent for permit holder, described the site and how the agency proposes to operate. Ana Maria Loya, agent for permit holder, said the appellant was presenting the same argument made to the Commission and described the other sites that had been considered and rejected. Public comment for appellant: Milton Gaines said this is the wrong location and that workers cause traffic problems and the proposal is a tragedy waiting to happen. Roxanne Malek described the negative impacts the program will have and said this site was not appropriate. Leora Vestel said she wants a reasonable project that improves the neighborhood. Michael Vestel said the space is too small for the intended use and it will have an impact on the area. Sonia Melara said the site is inappropriate. Annette Banchero said the space is too small. Howard Gustadt said the site is too small and that the program will have a tremendous impact on the community. Michael Miller-Quintana said the site is inappropriate for the proposed use. Joe Porcoro said the Commission's conditions show that the site is too small since they must seek a more appropriate site in a year. Capt. Greg Corrales, PD Mission Station, said he opposes the project because it will cause traffic problems and will increase the work load of the Police Dept.; he said he was not speaking for the department but for himself and Mission Station. Jose Mumiz said he hires day laborers and thinks the space is too small. Erick Arguello said he has a restaurant and must clean up after workers who litter and urinate on the street. Jaime Ross said the space is way too small. Christine Pascual said the program will make the streets unsafe for the elderly. John Mendoza said he employs nine people all year, and thinks the space is too small. Public comment for permit holder: Alicia Larco said the project has taken two years and the facility is suitable. Julio Loyola said the program serves day laborers and immigrants and the space is 3 ½ times larger than the present facility. Jose Alfaro said the space is not too small. Sister Maura Sullivan said the program will give dignity and justice to hard working people. David Corona said he hopes the Board will give them the permit. Luis Granados said the Commission's conditions will be met and no new information is being offered on traffic and parking. Fran Taylor said she is a neighbor and supports the project. James Quesada said this is a service site and not a housing site. Roni Robertson said the appellant opposed it before because it was too big and not because the site was too small, and she thinks the site is perfect. Jeff Giaquinto said only a small group is in opposition. Eric Quesada said this is a successful program, which has been thoroughly vetted by the Commission already. Jonas Ionin, SP PD, said this is a principally permitted use, and that no CU is necessary for it, and that it underwent a mandatory staff DR and will come back before the Commission after a year.

(11) **APPEAL NO. 04-008**

SERVELINA CONDE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	155 Ellington Street. Protesting the issuance on January 12, 2004, to Conrad Navarro, Permit to Alter a Building (on single-family house: comply with complaint no. 200446665; foundation revision to Building Permit Application No. 2003/12/02/1393). APPLICATION NO. 2004/01/12/3781. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Servelina Conde, appellant, gave the history of the project and reasons for opposing the permit, which is her concern about the foundation work and the impact on her property. Michael Lee, attorney for permit holder, said his client's daughter is disabled and work has already been done, and plans were signed off by the Deputy Director and the items inspected and found to have been done properly. Neftalio Rivera, agent for permit holder, explained the plans. Leo McFadden, SBI DBI, said exhaustive efforts have been made to resolve the appellant's concerns and correct the foundation. No public comment.

There being no further business, President Harrington adjourned the meeting at 9:11 p.m.

Kathleen Harrington

Robert H Feldman

Kathleen Harrington, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

Board of Appeals

March 17, 2004 (No Meeting)

PUBLIC NOTICE

The Board of Appeals has not scheduled a meeting for March 17, 2004. The next regular meeting is scheduled for **Wednesday, March 24, 2004, City Hall, Room 416, 5:00 p.m.,** One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any other appeal matter.

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FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

Date Posted: **March 11th, 2004**

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, MARCH 24, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS:

(3A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 239 Greenwich St
Permit issued on Oct. 6, 2003
Last day to appeal was Oct. 21, 2003
Jurisdiction request received on Dec. 3, 2003

Letter from John Cowen, asking that the Board take jurisdiction over Building Permit Application No(s). 2003/10/06/6615. Project: on single family house, stair way, 4' wide, not more than 30" above grade, on deeded and recorded easement. Permit Holder(s): Terrance Forgette.

(3B) REHEARING REQUEST:

Letter Craig Nikitas, Acting Zoning Administrator, requesting rehearing of Appeal No(s). 03-192, decided Feb. 18, 2004. At that time, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the subject permit with the following condition(s): a) that there be no construction on the 2nd level of the garage; and b) that the exit from the bathroom to the roof deck be eliminated. Project: on single-family house, construct one floor above existing garage as computer room/home office. Appellant(s): Leticia & Leopoldo Redondo. Permit Holder(s): Javier Giron.

(3C) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 65-67 Pearl Street
Permit issued on February 5, 2004
Last day to appeal was February 20, 2004
Jurisdiction request received on March 2, 2004

Letter from Brian Basinger, asking that the Board take jurisdiction over Building Permit Application No(s). 2004/02/05/5723. Project: on two-family house, install new garage according to attached drawings. Permit Holder(s): Jan Neufeld.

ITEMS (4A) & (4B) SHALL BE HEARD TOGETHER:

(4A) **APPEAL NO. V03-205**

JOHN GLUGOSKI, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. FOR HEARING TODAY.

(4B) **APPEAL NO. V03-209**

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. FOR HEARING TODAY.

(5) **APPEAL NO. 03-196**

FRANCIS DAVID RYAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1018 Clayton Street. Protesting the issuance on Sept. 22, 2003, to Gunther Dertz, Permit to Alter a Building (on single-family house: construct 7' X 36" high one-hour fire rated parapet on roof at south side). APPLICATION NO. 2003/09/22/5414. JURISDICTION GRANTED 11/12/03. PUBLIC HEARING CLOSED ON 1/28/04. FOR FURTHER CONSIDERATION TODAY.

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 03-197**

ALL-CITY CONSTRUCTION CO., Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 2/4/04. FOR FURTHER CONSIDERATION TODAY.

(6B) **APPEAL NO. 03-199**

HOWARD & SUSIE WOO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 2/4/04. FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 03-206**

JOE LEUNG, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on December 16, 2003, of a Driver of Public Passenger Vehicle for Hire Permit. RESOLUTION NO. 2003-87. FOR HEARING TODAY.

(8) **APPEAL NO. 02-204**

LEE & RUTH ANN SEWARD, THOMAS & JODY ROBERTSON, SYDNEY GOLDSTEIN, STEVE & BRENDA BOTTUM, & RICK ELLIS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2736 Pierce Street. Protesting the issuance on October 7, 2002, to P.Q. & June Chin, Permit to Alter a Building (sun deck on top of existing roof, 42" high rail, 4X4 post secured to existing structure (roof)). APPLICATION NO. 2002/10/07/8421. FOR HEARING TODAY.

ITEMS (9A) & (9B) SHALL BE HEARD TOGETHER:

(9A) **APPEAL NO. 03-203**

PAMELA DAY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	334-336 – 6th Street. Protesting the issuance on Dec. 5, 2003, to 334-336 – 6th Street Associates LLC, Permit to Demolish a Building (2-story office/warehouse with 3000sf of ground floor area). APPLICATION NO. 2002/09/20/7085. FOR HEARING TODAY.

(9B) **APPEAL NO. 03-204**

PAMELA DAY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	334-336 – 6th Street. Protesting the issuance on Dec. 5, 2003, to 334-336 – 6th Street Associates LLC, Permit to Erect a Building (5-story, 8-unit residential building with 3000sf of ground floor area). APPLICATION NO. 2002/09/20/7092. FOR HEARING TODAY.

(10) **APPEAL NO. 04-009**

RACHEL KOVAR, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2120 Fillmore Street #A. Appealing a Police Permit Zoning Referral, dated January 20, 2004, addressed to Rachel Kovar, that the application for personal service use (fortune-telling) cannot be approved because such a use is not permitted within a residential dwelling unit in the Fillmore Neighborhood Commercial District under Planning Code § 204.1. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: **March 18th, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
ARNOLD Y.K. CHIN	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**
DOUGLAS SHOEMAKER	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

ecord and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MARCH 24, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, Commissioner Sabrina Saunders, and Commissioner Douglas Shoemaker.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Jonas Ionin, Senior Planner, Planning Departmnet (SP, PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI DBI); Naomi Little, Executive Director, Taxi Commission (ED, TC); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

SPEAKERS: None.

(3) ADDENDUM ITEMS:

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(3A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 239 Greenwich St
Permit issued on Oct. 6, 2003
Last day to appeal was Oct. 21, 2003
Jurisdiction request received on Dec. 3, 2003

Letter from John Cowen, asking that the Board take jurisdiction over Building Permit Application No(s). 2003/10/06/6615. Project: on single family house, stair way, 4' wide, not more than 30" above grade, on deeded and recorded easement. Permit Holder(s): Terrance Forgette.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to deny the jurisdiction request.

SPEAKERS: John Cowen, requestor, asked the Board to let him file a late appeal because there had been no notice of the permit's issuance. Craig Nikitas, AZA, explained that the permit had been issued over-the –counter in error and that a permit is required for this project because the property is in the Telegraph Hill Historic District, and a Certificate of Appropriateness is also required; he supported the request. Terrance Forgette, permit holder, explained the history of his ownership and described the steps he built which are modeled on the Filbert Street steps. Laurence Kornfield, CBI, DBI, said his department can suspend the permit if a Certificate of Appropriateness is required. Public comment: Joe Luttrell of THD explained why his group has not reacted to the project and described other construction on the property.

(3B) **REHEARING REQUEST:**

Letter Craig Nikitas, Acting Zoning Administrator, requesting rehearing of Appeal No(s). 03-192, decided Feb. 18, 2004. At that time, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the subject permit with the following condition(s): a) that there be no construction on the 2nd level of the garage; and b) that the exit from the bathroom to the roof deck be eliminated. Project: on single-family house, construct one floor above existing garage as computer room/home office. Appellant(s): Leticia & Leopoldo Redondo. Permit Holder(s): Javier Giron.

ACTION: Upon motion by Vice President Sugaya, the Board voted 5-0 to grant the rehearing request and to set the rehearing for March 31, 2004.

SPEAKERS: Craig Nikitas, AZA, explained the permit history and the effect of the Board ruling which imposes a condition on the front building only since there was no permit appealed for the rear building and no jurisdiction over it. Javier Giron, permit holder, asked the Board to deny the request. Leticia Redondo, appellant, said she is only concerned with the front building. Public comment: Michael Hutchison said he is only concerned with the condition on the front of the building.

(3C) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 65-67 Pearl Street
Permit issued on February 5, 2004
Last day to appeal was February 20, 2004
Jurisdiction request received on March 2, 2004

Letter from Brian Basinger, asking that the Board take jurisdiction over Building Permit Application No(s). 2004/02/05/5723. Project: on two-family house, install new garage according to attached drawings. Permit Holder(s): Jan Neufeld.

ACTION: Upon motion by President Harrington, the Board voted 5-0 to grant the jurisdiction request.

SPEAKERS: Brian Basinger, requestor, said he has AIDS and is being "Ellis Acted" out of his apartment; he said he applied for a block book notation (BBN) but was never notified of the issuance of the permit nor had the permit holder discussed the project with him or mailed him notice. Denise Leadbetter, attorney for permit holder, said that there is much work to be done and the project is construction of a garage. John Polland, agent for permit holder, said that he has never evicted anyone and does not know about the Ellis Act. Jonas Ionin, PD, said that no Section

311 notice is required because the project results in reducing the envelope but that the BBN should have resulted in notification, but may not have been entered until after the permit was reviewed.

ITEMS (4A) & (4B) SHALL BE HEARD TOGETHER:

(4A) **APPEAL NO. V03-205**

JOHN GLUGOSKI, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. FOR HEARING TODAY.

(4B) **APPEAL NO. V03-209**

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 5-0 to uphold the variance with the following condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature.

SPEAKERS: Jonis Ionin, PD, explained that the lot is extremely undersized but still a lot of record and is buildable. John Glugoski, appellant, said that the design is the issue since it is not in harmony with the neighborhood. Chris Moscone, attorney for appellants Catherine & Ann Ferreira, said that the variance should not have been granted because the project violates Section 188 of the Planning Code, that there is no hardship, and that discrepancies with the Planning Code shall be increased; he asked that conditions be imposed if it is upheld. Bruce Bonacker, architect for appellants, explained the proposed conditions which will preserve his clients' visual access and reduce the compromise to their privacy. Jay Capela, co-variance holder, explained how the addition is needed for his growing family and that he has already made several design compromises to suit the neighbors, and that the project does fit into the neighborhood. Public comment: Francisco Centurion said while glass boxes are fine in other circumstances, they are out of character with Russian Hill. Cecilia Marihart read a letter to the Board from residents of 1807 Jones who said the variance holders had not acted in good faith. Karen Robertson read her husband's letter to the Board which said that there were other solutions to the owners' needs and that the compromises offered so far were not serious. Daniela Ballard read a statement and said that the appellants are open minded, but were not given timely accurate information about the project. Raj Tha spoke for Eric Holderman at 1809 Jones, and said that the process and plans had been manipulated to avoid Code standards. Ann Ferreira, co-appellant, said the appellants have presented reasonable alternatives that will protect neighbors. Catharine Barnes, DCA OCA, responded to Board questions about the variance process. Dart Cherk, architect for variance holders, said that this building was the first PUD in the City; he explained the effect of the proposed revisions on the project.

(5) **APPEAL NO. 03-196**

FRANCIS DAVID RYAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1018 Clayton Street. Protesting the issuance on Sept. 22, 2003, to Gunther Dertz, Permit to Alter a Building (on single-family house: construct 7' X 36" high one-hour fire rated parapet on roof at south side). APPLICATION NO. 2003/09/22/5414. JURISDICTION GRANTED 11/12/03. PUBLIC HEARING CLOSED ON 1/28/04. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 3-2 (Commissioner Shoemaker & Vice President Sugaya dissented) to uphold the subject permit.

SPEAKERS: Laurence Kornfield, CBI DBI, said he and Mr. McFadden made a site visit as requested by the Board and that in their view there is no imminent life safety hazards, and that while the parapet would not be allowed on a new building this one is permitted to remain. Gunther Dertz, permit holder, said this is not a spite wall and that the neighbor's condition presents a hazard to him. Francis David Ryan, appellant, described his unsuccessful attempts to reach an agreement with the permit holder.

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 03-197**

ALL-CITY CONSTRUCTION CO., Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 2/4/04. FOR FURTHER CONSIDERATION TODAY.

(6B) **APPEAL NO. 03-199**

HOWARD & SUSIE WOO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 2/4/04. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Saunders absent) to continue the appeal to March 31, 2004, and for it to go first on the agenda.

SPEAKERS: Ken Harrington, Deputy Director of DBI, reviewed the case and the documents which have been presented to the Board, and answered Board questions. Joel Yodowitz, attorney for All City Construction, explained how the ordinance is confusing and difficult to understand and he said the unreported federal case referred to by the Department is not relevant here and his client had no intent to deceive anyone. Roger Meredith, attorney for appellants Howard and Susie Woo, said that the unreported case has no precedent value here, and could not be cited, and objects to the lack of due process for his clients. Neil Sofia, architect, said that DBI had ten months to review plans and should have pointed out any discrepancies if there were any. Public comment: Maria Sousa explained the benefits to builders of illegal demolitions. Joe O'Donoghue described reasons developers try to avoid the demolition permit process.

(7) **APPEAL NO. 03-206**

JOE LEUNG, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on December 16, 2003, of a Driver of Public Passenger Vehicle for Hire Permit. RESOLUTION NO. 2003-87. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the appeal to April 28, 2004.

SPEAKERS: Sherry Gendelman, attorney for appellant, requested a rescheduling a night with a 5 member Board. Naomi Little, ED TC, did not object to the rescheduling request.

(8) **APPEAL NO. 02-204**

LEE & RUTH ANN SEWARD, THOMAS & JODY ROBERTSON, SYDNEY GOLDSTEIN, STEVE & BRENDA BOTTUM, & RICK ELLIS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2736 Pierce Street. Protesting the issuance on October 7, 2002, to P.Q. & June Chin, Permit to Alter a Building (sun deck on top of existing roof, 42" high rail, 4X4 post secured to existing structure (roof)). APPLICATION NO. 2002/10/07/8421. FOR HEARING TODAY.

ACTION: Appeal withdrawn by the appellants.

ITEMS (9A) & (9B) SHALL BE HEARD TOGETHER:

(9A) **APPEAL NO. 03-203**

PAMELA DAY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	334-336 – 6th Street. Protesting the issuance on Dec. 5, 2003, to 334-336 – 6th Street Associates LLC, Permit to Demolish a Building (2-story office/warehouse with 3000sf of ground floor area). APPLICATION NO. 2002/09/20/7085. FOR HEARING TODAY.

(9B) **APPEAL NO. 03-204**

PAMELA DAY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	334-336 – 6th Street. Protesting the issuance on Dec. 5, 2003, to 334-336 – 6th Street Associates LLC, Permit to Erect a Building (5-story, 8-unit residential building with 3000sf of ground floor area). APPLICATION NO. 2002/09/20/7092. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Harrington, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the subject permit.

SPEAKERS: Leyla Farah said she is part of the appellant's group but the appellant is not present and she herself is not speaking for the appellant; she thinks the appeal may be a waste of time. Bruce Baumann, agent for permit holder, described his discussions with the appellant. Joe O'Donoghue said the appellant is a broker and that the association is not aware of the facts of the project, and that the appellant keeps raising new issues. No public comment.

(10) **APPEAL NO. 04-009**

RACHEL KOVAR, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2120 Fillmore Street #A. Appealing a Police Permit Zoning Referral, dated January 20, 2004, addressed to Rachel Kovar, that the application for personal service use (fortune-telling) cannot be approved because such a use is not permitted within a residential dwelling unit in the Fillmore Neighborhood Commercial District under Planning Code § 204.1. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the Zoning Administrator's Police Permit Referral, with the following findings: a) that Planning Code Section 402.1(h) applies; b) that the appellant is a professional as defined under the Planning Code, and with the following condition: a) that there be no advertising in the front windows.

SPEAKERS: Jeff Rosen, attorney for appellant, said this case is an unintended consequence of the recent ordinance and asked the Board to allow his client to remain in business and that no neighbors oppose the appeal. Jonas Ionin, PD, explained how the Code has been interpreted traditionally and that this occupation can be allowed as an accessory use like a profession. Public comment: Ronald Hobbs spoke in favor of the appellant's appeal.

There being no further business, President Harrington adjourned the meeting at 9:27 p.m.

Kathleen Harrington

Robert H

Kathleen Harrington, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, MARCH 31, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

DOCUMENTS DEPT.
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(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST: 572 San Jose Avenue
Appeal No(s). 03-194, Tehlirian vs. DBI, PCD

Letter Ara Tehlirian, co-appellant, requesting rehearing of Appeal No(s). 03-194, decided March 3, 2004. At that time, upon motion by President Chin, the Board voted 3-2 (Commissioners Shoemaker & Sugaya dissented) to overrule the denial and grant the permit with conditions as presented by the appellant. Four votes being required to overrule a departmental action, the denial of the subject permit was upheld. Project: on two-unit building, horizontal and vertical addition, 335sf on ground floor, 368sf on 2nd floor, and 1038sf on 3rd floor; electrical, plumbing, and mechanical under separate permit. DR Requestor(s): Jose Morales.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL: Subject property at 945 Darien Way
Request to suspend permit dated Oct. 1, 2003
Last day to appeal was Oct. 16, 2003
Jurisdiction request received on Dec. 8, 2003

Letter from Nina Guralnik, requestor(s), asking that the Board take jurisdiction over a request by the Acting Zoning Administrator to suspend Building Permit Application No(s). 2003/08/05/1215. Reason(s) for requesting suspension: subject permit was approved erroneously over-the-counter by the Planning Department, and a subsequent review of the architectural plans revealed that this permit was taken out to construct an illegal guesthouse in the existing garage space, rather than to repair fire damage as stated on the permit application.

ITEMS (4A) & (4B) SHALL BE HEARD TOGETHER:

(4A) **APPEAL NO. 03-197**

ALL-CITY CONSTRUCTION CO., Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 2/4/04. FOR FURTHER CONSIDERATION TODAY.

(4B) **APPEAL NO. 03-199**

HOWARD & SUSIE WOO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 2/4/04. FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. 03-192**

LETICIA & LEOPOLDO REDONDO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	710 Edinburgh Street. Protesting the issuance on November 4, 2003, to Javier Giron, Site Permit to Alter a Building (on single-family house: construct one floor above existing garage as computer room/home office). APPLICATION NO. 2002/08/28/5143S. **Note:** On Feb. 18, 2004, the Board voted to uphold the subject permit with conditions. On March 24, 2004, the Board voted to grant the rehearing request by the Acting Zoning Administrator. FOR REHEARING TODAY.

(6) **APPEAL NO. 03-190**

TOM KATZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	616 Shrader Street. Appealing the suspension on Aug. 6, 2003, of BPA Nos. 2003/08/06/1364 & 2003/07/23/0191. Reason(s) for suspension: the 1st permit was approved erroneously, and the 2nd permit requires further review by the Planning Dept. since both permits did not receive residential guideline review by Planning Dept. preservation technical specialists, which is required for the replacement of windows on architecturally significant buildings like the subject property. JURISDICTION GRANTED NOV. 12, 2003. PUBLIC HEARING CLOSED ON FEB. 11, 2004. FOR FURTHER CONSIDERATION TODAY.

ITEMS (7A), (7B) & (7C) SHALL BE HEARD TOGETHER:

(7A) **APPEAL NO. 03-147**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street. Appealing the denial on September 26, 2003, of Permit to Demolish a Building (two-story single family house with 1,316sf of ground floor area). APPLICATION NO. 2002/07/15/1446. FOR HEARING TODAY.

(7B) **APPEAL NO. 03-148**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building B). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1437S. FOR HEARING TODAY.

(7C) **APPEAL NO. 03-149**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building A). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1442S. FOR HEARING TODAY.

(8) **APPEAL NO. V03-208**

DAVID CANNON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2 Ord Court. Protesting the granting on Dec. 18, 2003, to Charlie Barnett (Subject Property Owner Fredric Silverman), Rear Yard Variance (construction of a new 2nd-story, vertical addition for the existing single-family house). VARIANCE CASE NO. 2003.0828V. FOR HEARING TODAY.

(9) **APPEAL NO. 04-011**

LONNA WAIS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2533 Baker Street. Protesting the issuance on December 24, 2003, to Tamar Fruchtman, Permit to Alter a Building (on two-family house: complete interior and exterior remodel of existing residence combined with 4,877sf of new construction (including basement, attic, garage and habitable space) to create a new single family residence with tandem off-street parking in garage; combine two units into one). APPLICATION NO. 2000/01/28/559. JURISDICTION GRANTED JAN. 28, 2004. FOR HEARING TODAY.

(10) **APPEAL NO. 04-013**

DANG LUONG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	327 Wheeler Ave. Protesting the issuance on Feb. 10, 2004, to Robert Eberle, Permit to Alter a Building (on single-family house: stair hall addition and remodel garage to include a master bedroom suite and mudroom). APPLICATION NO. 2003/06/04/6299. FOR HEARING TODAY.

ITEMS (11A) & (11B) SHALL BE HEARD TOGETHER:

(11A) **APPEAL NO. 04-015**

BERE DEVELOPMENT LLC., Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	136 Parker Street. Appealing a Notice of Violation dated February 23, 2004, addressed to Bere Development LLC, that the non-conforming front façade of the subject building was rebuilt after being voluntarily removed, in violation of Planning Code § 188(b); that the front setback of the project is less than the average of the front setbacks of the two adjacent properties, in violation of Planning Code § 132(a); and that a parking space that met Code requirements has been removed, in violation of Planning Code § 150(d). FOR HEARING TODAY.

(11B) **APPEAL NO. 04-018**

BERE DEVELOPMENT LLC., Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	136 Parker Street. Appealing a Request for Suspension, addressed to Dept. of Building Inspection director Frank Chiu, asking that Building Permit Application No(s). 2002/02/08/8800S be suspended for the following reason(s): the project sponsor will need to file for and justify a variance under Planning Code § 132(a) for a non-complying front setback, and §150(d) for removal of required parking; and because the information shown on the plans for this permit about existing parking is not consistent with prior building permits. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: **March 25th, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
ARNOLD Y.K. CHIN	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**
DOUGLAS SHOEMAKER	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

ecord and will be brought to the attention of the Board at the public hearing. For complete distribution to ll Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

ursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or evelopment permit, you may be limited to raising only those issues you or someone else raised at the ublic hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, r prior to, the public hearing.

alendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken ut of order to accommodate special needs. The Board urges all parties to be present in the hearing oom from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when t is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

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CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MARCH 31, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, Commissioner Sabrina Saunders, and Commissioner Douglas Shoemaker.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Craig Nikitas, Acting Zoning Administrator, (AZA, PD); Leo McFadden, Senior Building Inspector, Dept. of Building Inspection (SBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: Steve Kawa, Chief of Staff, Mayor's Office, thanked Commissioner Chin for his years of service as Presidentof the Board of Appeals and presented him with a Certificate of Merit.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

SPEAKERS: None.

(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST: 572 San Jose Avenue
Appeal No(s). 03-194, Tehlirian vs. DBI, PCD

Letter Ara Tehlirian, co-appellant, requesting rehearing of Appeal No(s). 03-194, decided March 3, 2004. At that time, upon motion by President Chin, the Board voted 3-2 (Commissioners Shoemaker & Sugaya dissented) to overrule the denial and grant the permit with conditions as presented by the appellant. Four votes being required to overrule a departmental action, the denial of the subject permit was upheld. Project: on two-unit building, horizontal and vertical addition, 335sf on ground floor, 368sf on 2nd floor, and 1038sf on 3rd floor; electrical, plumbing, and mechanical under separate permit. DR Requestor(s): Jose Morales.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to continue the matter to May 12, 2004, with the public hearing on this rehearing request closed.

SPEAKERS: Ara Tehlirian, co-appellant, asked the Board to grant him a rehearing because of the manifest injustice of its decision. Jose Morales, DR Requestor, urged the Board to deny the request and said the project is really a demolition and not an alteration. Edwin Lindo, agent for DR Requestor, said the project results in demolition of 60% of the building so it is a demolition and not an alteration.

(3B) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 945 Darien Way
Request to suspend permit dated Oct. 1, 2003
Last day to appeal was Oct. 16, 2003
Jurisdiction request received on Dec. 8, 2003

Letter from Nina Guralnik, requestor(s), asking that the Board take jurisdiction over a request by the Acting Zoning Administrator to suspend Building Permit Application No(s). 2003/08/05/1215. Reason(s) for requesting suspension: subject permit was approved erroneously over-the-counter by the Planning Department, and a subsequent review of the architectural plans revealed that this permit was taken out to construct an illegal guesthouse in the existing garage space, rather than to repair fire damage as stated on the permit application.

ACTION: Matter withdrawn by the requestor.

ITEMS (4A) & (4B) SHALL BE HEARD TOGETHER:

(4A) **APPEAL NO. 03-197**

ALL-CITY CONSTRUCTION CO., Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 2/4/04. FOR FURTHER CONSIDERATION TODAY.

(4B) **APPEAL NO. 03-199**

HOWARD & SUSIE WOO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 2/4/04. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to continue the appeal to May 12, 2004.

SPEAKERS: Craig Nikitas, AZA, reported that the Board of Supervisors Land Use Committee has scheduled a hearing on the matter next week. Ken Harrington, Deputy Director, DBI, in response to Board questions said the department seeks the upholding of its decision and is not prepared to negotiate a settlement. David Silverman, attorney for appellant, urged the Board to overrule the penalty since there is no evidence that his client intended to violate the Code nor that there was any intent to mislead anyone. No public comment.

(5) **APPEAL NO. 03-192**

LETICIA & LEOPOLDO REDONDO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	710 Edinburgh Street. Protesting the issuance on November 4, 2003, to Javier Giron, Site Permit to Alter a Building (on single-family house: construct one floor above existing garage as computer room/home office). APPLICATION NO. 2002/08/28/5143S. **Note:** On Feb. 18, 2004, the Board voted to uphold the subject permit with conditions. On March 24, 2004, the Board voted to grant the rehearing request by the Acting Zoning Administrator. FOR REHEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to revoke the subject permit.

SPEAKERS: Leticia Redondo, co-appellant, said she remains concerned about possible construction on the garage at the front of the property and was not concerned about the rear.

Craig Nikitas, AZA, explained the procedural reason he asked for the rehearing. No public comment.

(6) APPEAL NO. 03-190

TOM KATZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	616 Shrader Street. Appealing the suspension on Aug. 6, 2003, of BPA Nos. 2003/08/06/1364 & 2003/07/23/0191. Reason(s) for suspension: the 1st permit was approved erroneously, and the 2nd permit requires further review by the Planning Dept. since both permits did not receive residential guideline review by Planning Dept. preservation technical specialists, which is required for the replacement of windows on architecturally significant buildings like the subject property. JURISDICTION GRANTED NOV. 12, 2003. PUBLIC HEARING CLOSED ON FEB. 11, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to continue the appeal to May 19, 2004.

SPEAKERS: Craig Nikitas, AZA, requested a rescheduling to work on a settlement with the appellant. Tom Katz, appellant, agreed to the rescheduling.

ITEMS (7A), (7B) & (7C) SHALL BE HEARD TOGETHER:

(7A) APPEAL NO. 03-147

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street. Appealing the denial on September 26, 2003, of Permit to Demolish a Building (two-story single family house with 1,316sf of ground floor area). APPLICATION NO. 2002/07/15/1446. FOR HEARING TODAY.

(7B) APPEAL NO. 03-148

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building B). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1437S. FOR HEARING TODAY.

(7C) **APPEAL NO. 03-149**

LEUNG TO CHOW, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	111 Lobos Street (Building A). Appealing the denial on September 26, 2003, of Site Permit to Erect a Building (three-story single family house with 1,602sf of ground floor area). APPLICATION NO. 2002/07/15/1442S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to overrule the Planning Commission and grant all 3 permits with findings as read into the record by Commissioner Chin, and with adoption of findings as submitted by the appellant's attorney.

SPEAKERS: Craig Nikitas, AZA, explained the Commission's decision and the soundness report which indicates the building is not sound. Leo McFadden, SBI DBI, said his review and site visit indicates the building is not sound. David Silverman, attorney for appellant, said the property is a double lot and two new homes will be built, that there was no opposition to the project, and that Planning staff recommended approval, that the project is Code compliant needing no variances, and that all concerns have been addressed. No public comment.

(8) **APPEAL NO. V03-208**

DAVID CANNON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2 Ord Court. Protesting the granting on Dec. 18, 2003, to Charlie Barnett (Subject Property Owner Fredric Silverman), Rear Yard Variance (construction of a new 2nd-story, vertical addition for the existing single-family house). VARIANCE CASE NO. 2003.0828V. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 2-3 (Commissioner Chin, Vice President Harrington, and Commissioner Saunders dissented) to overrule the subject variance with adoption of findings as submitted by the appellant. Four votes being required to overturn a departmental action under the City Charter, the motion failed, and the subject variance was upheld.

SPEAKERS: Craig Nikitas, AZA, explained the variance that was granted and the revisions, which he made to it. Claire Pilcher, attorney for appellant, said that the five requirements for a variance have not been met, and that the variance should be overruled because the project will do great harm to her client. David Cannon, appellant, described how the project will impact him and said there are alternatives that would allow the owner expansion without impact on him and without the need for a variance. Alice Barkley, attorney for variance holder, described the project and said all five requirements have been met, and that this is only a minor project adding 30sf into the rear yard. Public comment: Christopher Hack said all the neighbors on Ord Court are concerned because there has been a lot of construction in the area recently.

(9) **APPEAL NO. 04-011**

LONNA WAIS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2533 Baker Street. Protesting the issuance on December 24, 2003, to Tamar Fruchtman, Permit to Alter a Building (on two-family house: complete interior and exterior remodel of existing residence combined with 4,877sf of new construction (including basement, attic, garage and habitable space) to create a new single family residence with tandem off-street parking in garage; combine two units into one). APPLICATION NO. 2000/01/28/559. JURISDICTION GRANTED JAN. 28, 2004. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to uphold the permit on condition that there be a 1 foot setback at the front.

SPEAKERS: Richrad Lund, attorney for appellant, asked the Board to enforce Section 134 of the Planning Code and require a regular rear yard so that the project is in context with the area. Brett Gladstone, attomey for permit holder, gave a narration of the property and permit history, and agreements between the parties and said it was recorded on the deed. Tamar Fruchtman, permit holder, said her family is growing and they need an expanded home. Craig Nikitas, AZA, said the project will have no impact on the mid-block open space. No public comment.

(10) **APPEAL NO. 04-013**

DANG LUONG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	327 Wheeler Ave. Protesting the issuance on Feb. 10, 2004, to Robert Eberle, Permit to Alter a Building (on single-family house: stair hall addition and remodel garage to include a master bedroom suite and mudroom). APPLICATION NO. 2003/06/04/6299. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Dang Luong, appellant, explained why he opposes the project. Blancett Reynolds, wife of permit holder, described the issues with the appellant, and described their project which will replace a stair that is not up to code, and also said the appellant has no easement over their property. Bob Eberle, permit holder, said their house is only 1100sf and the appellant's window is frosted already as well as blocked by a pipe. Craig Nikitas, AZA, said this is a code-complying modest project. No public comment.

ITEMS (11A) & (11B) SHALL BE HEARD TOGETHER:

(11A) **APPEAL NO. 04-015**

BERE DEVELOPMENT LLC., Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	136 Parker Street. Appealing a Notice of Violation dated February 23, 2004, addressed to Bere Development LLC, that the non-conforming front façade of the subject building was rebuilt after being voluntarily removed, in violation of Planning Code § 188(b); that the front setback of the project is less than the average of the front setbacks of the two adjacent properties, in violation of Planning Code § 132(a); and that a parking space that met Code requirements has been removed, in violation of Planning Code § 150(d). FOR HEARING TODAY.

(11B) **APPEAL NO. 04-018**

BERE DEVELOPMENT LLC., Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	136 Parker Street. Appealing a Request for Suspension, addressed to Dept. of Building Inspection director Frank Chiu, asking that Building Permit Application No(s). 2002/02/08/8800S be suspended for the following reason(s): the project sponsor will need to file for and justify a variance under Planning Code § 132(a) for a non-complying front setback, and §150(d) for removal of required parking; and because the information shown on the plans for this permit about existing parking is not consistent with prior building permits. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-1 (Vice President Sugaya dissented) to overrule the ZA with adoption of findings as submitted by the appellant's attorney.

SPEAKERS: Craig Nikitas, AZA, said the permit had been approved by a "green" planner in error, and that a variance needs to be granted to allow the projection into the front setback. Jim Reuben, attorney for appellant, explained that a variance is not needed and that the Avco decision covers this situation of vested rights, as his client has completed most of his project under lawful permits, and the neighbors did not object, and no DR hearing was requested. Public comment: Joe O'Donoghue said the building can't become a non-conforming use.

There being no further business, President Harrington adjourned the meeting at 9:06 p.m.

Kathleen Harrington

Kathleen Harrington, President

Robert H Feldman

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

Board of Appeals

April 07, 2004 (No Meeting)

PUBLIC NOTICE

The Board of Appeals has not scheduled a meeting for April 7, 2004. The next regular meeting is scheduled for **Wednesday, April 14, 2004, City Hall, Room 416, 5:00 p.m.,** One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any other appeal matter.

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FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

Date Posted: **April 1st, 2004**

Board of Appeals

April 14, 2004 (Cancelled Meeting)

PUBLIC NOTICE

The Board of Appeals has **CANCELLED** the meeting of April 14, 2004, and has not scheduled a meeting for April 21, 2004. The next regular meeting is scheduled for **Wednesday, April 28, 2004, City Hall, Room 416, 5:00 p.m.,** One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any other appeal matter.

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FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

Date Posted: **April 8, 2004**

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, APRIL 28, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:**

(3A) **REHEARING REQUEST:**

1018 Clayton Street
Appeal No(s). 03-196
Ryan vs. DBI, PDA

04-23-04A11:20 RCVD

Letter from Francis David Ryan, Appellant(s), requesting rehearing of Appeal No(s). 03-196, decided March 24, 2004. At that time, upon motion by President Chin, the Board voted 3-2 (Commissioners Shoemaker and Sugaya dissented) to uphold the subject permit. Project:: on single-family house, construct 7' X 36" high one-hour fire rated parapet on roof at south side. Permit Holder(s): Gunther Dertz.

(4) **APPEAL NO. 01-115**

THERESA ISSERMAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	700 Vermont Street. Protesting issuance on June 20, 2001, to Raymond & Hazel Guaraglia, Permit to Alter a Building (demolish existing non-compliant residential units per Notice of Violation No. 200114983; remove all utilities to ground level; convert to original commercial space with no structural work to be done). APPLICATION NO. 2001/06/20/1935. PUBLIC TESTIMONY HEARD 6/19/03. FOR FURTHER CONSIDERATION TODAY.

(5) APPEAL NO. 03-154

ULYSSES NAPURI dba “LAST STOP SOUVENIR”, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	498 Beach Street. Appealing the denial on May 5, 2003, of a Sidewalk Display Merchandise Permit. ORDER NO. 174,098. JURISDICTION GRANTED SEPT. 17, 2003. PUBLIC HEARING HELD & CLOSED ON DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

(6) APPEAL NO. 03-044

JOHN ARKEDER, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on March 19, 2003, of taxicab medallion No. 1167. RESOLUTION NO. 2003-09. FOR HEARING TODAY.

(7) APPEAL NO. 03-052

LANDO SIU, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on March 25, 2003, of taxicab medallion #1181. RESOLUTION NO. 2003-12. **NOTE:** At the original hearing of June 4, 2003, the Board voted to uphold the subject revocation. On September 17, 2003, the Board voted to grant the jurisdiction request seeking a second 10-day rehearing request period; the Board also voted that same day to grant the rehearing request. FOR REHEARING TODAY.

(8) APPEAL NO. 03-206

JOE LEUNG, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on December 16, 2003, of a Driver of Public Passenger Vehicle for Hire Permit. RESOLUTION NO. 2003-87. FOR HEARING TODAY.

9) APPEAL NO. 03-117

GEORGE HAMILTON HAUCK & DUANE FRISBIE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	218 Union Street. Protesting the issuance on July 15, 2003, to John Votruba, Permit to Alter a Building (on 3-story, 7-unit residential building: rebuild upper deck on roof – see NOV No(s). 200336693; new roof ladder). APPLICATION NO. 2003/07/15/9492. FOR HEARING TODAY.

(10) APPEAL NO. 03-185

ARYE MICHAEL BENDER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	3334 Folsom Street. Protesting the issuance on October 21, 2003, to John Woolsey-McKernnon (new owner Tim Albinson), Permit to Alter a Building (on single-family house: removal of stove and refrigerator in basement apartment). APPLICATION NO. 2003/10/21/8076. FOR HEARING TODAY.

(11) APPEAL NO. 04-005

JIMMY CHU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	425 Junipero Serra Boulevard. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Jan. 5, 2004, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that Building Permit Application No(s). 2003/02/13/7355, 2003/05/14/4558 and 2003/06/20/7261 are hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: April 22nd, 2004

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	PRESIDENT
HISASHI B. SUGAYA	VICE PRESIDENT
ARNOLD Y.K. CHIN	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER
DOUGLAS SHOEMAKER	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

ecord and will be brought to the attention of the Board at the public hearing. For complete distribution to ill Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or levelopment permit, you may be limited to raising only those issues you or someone else raised at the oublic hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when t is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

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CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, APRIL 28, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, Commissioner Sabrina Saunders, and Commissioner Douglas Shoemaker.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Jonas Ionin, Senior Planner, Planning Department (SP, PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI DBI); Naomi Little, Executive Director of the Taxi Commission (ED TC); Jacob Szeto, for the Dept. of Public Works Bureau of Street Use & Mapping (DPW BSM); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) **PUBLIC COMMENT**:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS & QUESTIONS**:

SPEAKERS: None.

(3) **ADDENDUM ITEMS**:

(3A) **REHEARING REQUEST:**

1018 Clayton Street
Appeal No(s). 03-196
Ryan vs. DBI, PDA

Letter from Francis David Ryan, Appellant(s), requesting rehearing of Appeal No(s). 03-196, decided March 24, 2004. At that time, upon motion by President Chin, the Board voted 3-2 (Commissioners Shoemaker and Sugaya dissented) to uphold the subject permit. Project:: on single-family house, construct 7' X 36" high one-hour fire rated parapet on roof at south side. Permit Holder(s): Gunther Dertz.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 4-1 (Commissioner Saunders dissented) to grant the rehearing request, and to set the rehearing for June 9, 2004.

SPEAKERS: Francis David Ryan, requestor, asked the Board to grant his request for a rehearing, and said the parapet wall is not the real issue, and that the wall is not needed under the Code. Gunther Dertz, permit holder, objected to the request and said he had offered to pay for fire-rated glass for the appellant's windows but that the offer had not been accepted; he felt the real danger is caused by the appellant's kitchen window and that the property line window is not legal.

(4) APPEAL NO. 01-115

THERESA ISSERMAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	700 Vermont Street. Protesting issuance on June 20, 2001, to Raymond & Hazel Guaraglia, Permit to Alter a Building (demolish existing non-compliant residential units per Notice of Violation No. 200114983; remove all utilities to ground level; convert to original commercial space with no structural work to be done). APPLICATION NO. 2001/06/20/1935. PUBLIC TESTIMONY HEARD 6/19/03. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to reschedule the appeal to May 26, 2004 at the written request of the parties.

SPEAKERS: None.

(5) APPEAL NO. 03-154

ULYSSES NAPURI dba "LAST STOP SOUVENIR", Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	498 Beach Street. Appealing the denial on May 5, 2003, of a Sidewalk Display Merchandise Permit. ORDER NO. 174,098. JURISDICTION GRANTED SEPT. 17, 2003. PUBLIC HEARING HELD & CLOSED ON DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to reschedule the appeal to June 9, 2004.

SPEAKERS: John Kwong, DPW BSM, reported that no one has applied for a building permit to legalize the tent structure from which the appellant conducts his business and he requested that the appellant's appeal be denied; he also said the sidewalk regulations are presently being met and that the sidewalk is not obstructed. Ulysses Napuri, appellant, said that he and his wife had tried to get a permit, but that DBI asked for professional plans and that no building permit has yet been granted. Maria Napuri, wife of appellant, said the owner's brother had a heart attack so no application has been filed by the owner. Catharine Barnes, DCA, responded to questions from the Board regarding the effect of the continuance of the hearing.

(6) APPEAL NO. 03-044

JOHN ARKEDER, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on March 19, 2003, of taxicab medallion No. 1167. RESOLUTION NO. 2003-09. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board 4-1 (Commissioner Sugaya dissented) to overrule the revocation and replace it with a 9-month suspension and 3-year probation period with the following condition(s): that during the 3 year probation period, appellant must submit waybills to the Taxi Detail on a quarterly basis.

SPEAKERS: Naomi Little, ED TC, explained why the Taxi Commission revoked the subject medallion, and said the appellant had been formally admonished and yet continued to violate the Code, not driving the required number of shifts, and thus it is a case of willful disregard of the Code requirements. Geoffrey Rotwein, attorney for appellant, said there has been no evidence produced by the Commission to justify the revocation and conceded that the appellant has had medical problems that have made driving difficult; he urged the Board to at least reduce the revocation to a suspension. John Arkeder, appellant, apologized for violating the regulations and asked the Board to help him keep his medallion. Public comment: Dan Hines of National Cab confirmed that the appellant had driven until his leg injury, and that he drives again as required.

(7) APPEAL NO. 03-052

LANDO SIU, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on March 25, 2003, of taxicab medallion #1181. RESOLUTION NO. 2003-12. **NOTE:** At the original hearing of June 4, 2003, the Board voted to uphold the subject revocation. On September 17, 2003, the Board voted to grant the jurisdiction request seeking a second 10-day rehearing request period; the Board also voted that same day to grant the rehearing request. FOR REHEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 3-2 to overrule the revocation and replace it with a 2-month suspension. Four votes being required to overturn a departmental action, the denial of the subject medallion was upheld.

SPEAKERS: Naomi Little, ED TC, explained why the Commission has revoked the appellant's medallion, saying that there is no good evidence that he has driven any of the required shifts at all. Geoffrey Rotwein, attorney for appellant, said he disputes all that was said, and that there is no evidence that his client has not met the requirements, and nothing to support the Commission's assertions. He said his client claims he has driven the years in question, and that he has surrendered his medallion which he relies on for his income. Lando Siu, appellant, said that he is sorry for not driving the required shifts and that he has taken full responsibility for meeting the requirements in the future since he needs the income from the medallion take care of his family, with a child in high school that wants to go to college. Inspector Farrell Suslow of the Taxi Detail said the waybills submitted by the appellant were blank, and not verifiable as proper waybills, though some evidence seems to indicate someone drove, but that there is no evidence the appellant drove in compliance with the Code. Public comment: Carl Macmurdo said he feels the medallion should be reinstated since the appellant has owned up to his problems, and that a suspension/probation should be imposed instead of revocation.

(8) **APPEAL NO. 03-206**

JOE LEUNG, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on December 16, 2003, of a Driver of Public Passenger Vehicle for Hire Permit. RESOLUTION NO. 2003-87. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to overrule the revocation and replace it with a 30-day suspension.

SPEAKERS: Naomi Little, ED TC, explained that the appellant's A-card was revoked because he bought para-transit scrip from an under-cover investigator, and that the program rules are clear, and the appellant violated them. Sherry Gendelman, attorney for appellant, said she relied on her legal arguments in her brief, and said her client has no police record from this incident, and that there are no elements here of a crime having been committed; she added that her client is 68, has limited English, and earns his income from driving a cab. Public comment: Mark Soto, general manager of the para-transit program, explained how the program works, and how the City is trying to end fraudulent abuses which result in depriving those entitled to scrip from receiving it; he added that he supports the Commission's action. Rua Graffis of the UTW explained how the instructions for participation in the program have changed: first the drivers were told to buy scrip and turn it into the cab company, then they were told not to buy it, thus confusing many drivers, including the appellant.

(9) **APPEAL NO. 03-117**

GEORGE HAMILTON HAUCK & DUANE FRISBIE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	218 Union Street. Protesting the issuance on July 15, 2003, to John Votruba, Permit to Alter a Building (on 3-story, 7-unit residential building: rebuild upper deck on roof – see NOV No(s). 200336693; new roof ladder). APPLICATION NO. 2003/07/15/9492. FOR HEARING TODAY.

ACTION: This appeal was withdrawn by the appellants.

SPEAKERS: None.

(10) **APPEAL NO. 03-185**

ARYE MICHAEL BENDER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	3334 Folsom Street. Protesting the issuance on October 21, 2003, to John Woolsey-McKernnon (new owner Tim Albinson), Permit to Alter a Building (on single-family house: removal of stove and refrigerator in basement apartment). APPLICATION NO. 2003/10/21/8076. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to uphold the subject permit on condition that DBI conduct a site visit in 60 days to verify that the permit has been executed, with a report to the Board from DBI thereafter.

SPEAKERS: Arye Michael Bender, appellant, said that he has moved out of the apartment and his appeal is now moot, but he did want to make a statement concerning protection of tenants in this situation, and their need for protection from unscrupulous landlords. No public comment.

(11) **APPEAL NO. 04-005**

JIMMY CHU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	425 Junipero Serra Boulevard. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Jan. 5, 2004, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that Building Permit Application No(s). 2003/02/13/7355, 2003/05/14/4558 and 2003/06/20/7261 are hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to reschedule the appeal to May 12, 2004 at the written request of the parties.

SPEAKERS: None.

There being no further business, President Harrington adjourned the meeting at 7:58 p.m.

Kathleen Harrington

Kathleen Harrington, President

Robert H Feldman

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

Board of Appeals

May 05, 2004 (No Meeting)

PUBLIC NOTICE

The Board of Appeals has not scheduled a meeting for May 5th, 2004. The next regular meeting is scheduled for **Wednesday, May 12th, 2004, 2004, City Hall, Room 416, 5:00 p.m.,** One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any other appeal matter.

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FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

Date Posted: **April 29th, 2004**

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, MAY 12, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

05-07-04A10:33 RCVD

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) SPECIAL ITEM:

Public hearing, discussion and adoption of the Board of Appeals Incompatible Activities Statement as required by the San Francisco Campaign and Governmental Conduct Code § 3.218. Copies are available at the Board office, and it is posted on our website at www.sfgov.org/boa. Please address comments to Executive Secretary Robert Feldman, Board of Appeals, 1660 Mission Street #3036, SF, CA 94103. Telephone (415) 575-6880, fax (415) 575-6885, or email at robert.feldman@sfgov.org.

(4) ADDENDUM ITEMS:

(4A) REHEARING REQUEST: 572 San Jose Avenue
Appeal No(s). 03-194, Tehlirian vs. DBI, PCD

Letter Ara Tehlirian, co-appellant, requesting rehearing of Appeal No(s). 03-194, decided March 3, 2004. At that time, upon motion by President Chin, the Board voted 3-2 (Commissioners Shoemaker & Sugaya dissented) to overrule the denial and grant the permit with conditions as presented by the appellant. Four votes being required to overrule a departmental action, the denial of the subject permit was upheld. Project: on two-unit building, horizontal and vertical addition, 335sf on ground floor, 368sf on 2nd floor, and 1038sf on 3rd floor; electrical, plumbing, and mechanical under separate permit. DR Requestor(s): Jose Morales.
Note: The public hearing on this rehearing request was held and closed on March 31, 2004.

(4B) **REHEARING REQUEST:**

1120-1122 Vallejo Street
Appeal No(s). V03-209, Ferreira vs. ZA

Letter from Chris Moscone, attorney for appellants Catherine and Ann Ferreira, requesting rehearing of Appeal No(s). V03-209, decided March 24, 2004. At that time, upon motion by Commissioner Sugaya, the Board voted 5-0 to uphold the variance with the following condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature. Variance Holder(s): Susan Lee, Jennifer Cherk & Jay Capela.

(4C) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 239 Santa Rosa Avenue
Permit issued on November 20, 2003
Last day to appeal was December 5, 2003
Jurisdiction request received on April 6, 2004

Letter from Lan Ying Li, asking that the Board take jurisdiction over Electrical Permit No(s). E200311205875 for the purpose of filing a penalty appeal. Project: 5 lights, 8 switches, 6 receptacles, remodel bathroom and kitchen, new furnace and water heater.

ITEMS (4D) & (4E) SHALL BE HEARD TOGETHER:

(4D) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 467 Duncan Street
Variance granted on June 9, 2003
Last day to appeal was June 19, 2003
Jurisdiction request received on April 23, 2004

Letter from Michael Martensen, Requestor(s), asking that the Board take jurisdiction over Variance Case No(s). 2003.0279V. Project: construction of a horizontal addition at the front of the existing single-family house, construction of cylindrical dormers and a spiral staircase connected by a catwalk and glass railing on the east side of the existing roof that extends beyond the front of the existing house, and construction of a deck extending from the front façade of the building. Variance Holder(s): Michael Logue. Subject Property Owner(s): Striebeck & Miyata.

(4E) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 467 Duncan Street
Permit issued on Feb. 10, 2004
Last day to appeal was Feb. 25, 2004
Jurisdiction request received on April 23, 2004

Letter from Michael Martensen, Requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2003/03/26/0782S. Project: on single-family house, vertical and horizontal extension. Permit Holder(s): Striebeck & Miyata.

TEMS (5A) & (5B) SHALL BE HEARD TOGETHER:

(5A) **APPEAL NO. 03-051**

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing the determination dated March 19, 2003, addressed to Andrew Zacks, that the subject property has a legal authorized use of 14 residential guest rooms and 1 dwelling unit, that residential guest rooms constitute "group housing" under § 209.2 of the Planning Code, that this group housing constitutes a permitted conditional use since it was established prior to the enactment of Conditional Use (CU) requirements for said use, and that this permitted conditional use shall be considered abandoned 3 years from the last legal date of residency of the last resident of said guest rooms. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

(5B) **APPEAL NO. 03-066**

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing a determination dated April 24, 2003, addressed to Andrew Zacks, that the proposed physical modifications to various residential guest rooms at the subject property would result in less viable guest rooms and would constitute a partial conversion of the structure to single family-use from its current legal authorized use of 14 residential guest rooms and 1 dwelling unit, in violation of Planning Code. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 03-197**

ALL-CITY CONSTRUCTION CO., Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 2/4/04. FOR FURTHER CONSIDERATION TODAY.

(6B) **APPEAL NO. 03-199**

HOWARD & SUSIE WOO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 2/4/04. FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 04-020**

STEPHEN D. SMITH, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	1480 Page Street. Appealing the denial on March 2, 2004, of a Permit to Remove and Replace One (1) Tree. ORDER NO. 174,691. FOR HEARING TODAY.

ITEMS (8A), (8B) & (8C) SHALL BE HEARD TOGETHER:

(8A) **APPEAL NO. V03-132**

WILLIAM CANIHAN, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	891 Carolina Street. Appealing the denial on August 22, 2003, of a Front Setback Variance (proposal is to construct a new 3rd level that intrudes into the required front setback area; the project also proposes a new 4th level addition, and one additional dwelling unit on an existing single-family, two-story over garage structure, which are not subjects of the variance request). VARIANCE CASE NO. 2002.0933V. FOR HEARING TODAY.

WITHDRAWN

(8B) **APPEAL NO. 03-137**

WILLIAM CANIHAN, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	891 Carolina Street. Appealing a determination dated August 20, 2003, disapproving Building Permit Application No(s). 2002/05/08/6090 (construction of a 2nd dwelling unit, and a 2-story vertical and horizontal addition on an existing single-family, two-story over garage structure). FOR HEARING TODAY.

WITHDRAWN

(8C) **APPEAL NO. 03-155**

WILLIAM CANIHAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL § 14 Party: KRISTINE GARDNER	891 Carolina Street Appealing the denial on Sept. 30, 2003, of Site Permit to Alter a Building (substantial alteration of existing dwelling from one unit to two units; addition of top story). APPLICATION NO. 2002/05/08/6090S. FOR HEARING TODAY.

WITHDRAWN

(9) **APPEAL NO. 04-005**

JIMMY CHU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	425 Junipero Serra Boulevard. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Jan. 5, 2004, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that Building Permit Application No(s). 2003/02/13/7355, 2003/05/14/4558 and 2003/06/20/7261 are hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. FOR HEARING TODAY.

(10) **APPEAL NO. 04-017**

YVONNE & IRWIN COTTON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2669 Sutter Street. Appealing the suspension on February 13, 2004, of Building Permit Application No(s). 2003/08/29/3479. Reason(s) for suspension: the above-referenced permit was approved in error over the counter by the Planning Dept., and the permit applicant knowingly abused the process to legalize a fake driveway. FOR HEARING TODAY.

(11) **APPEAL NO. 04-019**

OCEAN PARC VILLAGE HOMEOWNER'S ASSOCATION, Appellant(s) vs. PLANNING DEPARTMENT, Respondent	730 Great Highway. Protesting the issuance on March 8, 2004, to Tom and Breda MacDonald & KTH LLC, Coastal Zone Permit Authorization (proposal is to construct a new three-story, four-unit building approximately 32 feet tall on a vacant lot). CASE NO. 2003.1009P. FOR HEARING TODAY.

(12) **APPEAL NO. 04-021**

EDWIN HOUTKOOPER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2258 Beach Street. Protesting the issuance on March 9, 2004, to Richard Garcia, Permit to Alter a Building (on single-family house: revisions and clarifications to supercede existing permit no(s). 9822604, 98251205, 9909806, 2000/04/25/8211, 2000/12/18/8145, 2001/03/28/5423, 2001/11/20/3576, 2001/11/20/3577, 2002/09/19/6941, 2002/09/27/7692, 2002/11/14/1488, and 2002/11/14/1489 to achieve final inspection). APPLICATION NO. 2003/07/02/8662. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: **May 3rd, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
ARNOLD Y.K. CHIN	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**
DOUGLAS SHOEMAKER	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

ecord and will be brought to the attention of the Board at the public hearing. For complete distribution to ll Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

ursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or evelopment permit, you may be limited to raising only those issues you or someone else raised at the ublic hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, r prior to, the public hearing.

alendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken ut of order to accommodate special needs. The Board urges all parties to be present in the hearing oom from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

he ringing of and use of cell phones, pagers and similar sound-producing electronic devices are rohibited at this meeting. Please be advised that the Chair may order the removal from the meeting oom of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-roducing electronic devices.

ACCESSIBILITY INFORMATION

merican sign language interpreters and/or sound enhancement system will be available upon request by ontacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe llergies, environmental illness, multiple chemical sensitivity or related disabilities should call the ccessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to ccommodate such people, attendees at public meetings are reminded that other attendees may be ensitive to various chemical-based products. Please help the City to accommodate these individuals. he closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde nd Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. ccessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega nd the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MAY 12, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, Commissioner Sabrina Saunders, and Commissioner Douglas Shoemaker.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Craig NIkitas, Acting Zoning Administrator, Planning Department (AZA, PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI DBI); Tony Wolcott, Acting Urban Forester, Dept. of Public Works Bureau of Urban Forestry (DPW BUF); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

ACTION: None.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

SPEAKERS: None.

(3) SPECIAL ITEM:

Public hearing, discussion and adoption of the Board of Appeals Incompatible Activities Statement as required by the San Francisco Campaign and Governmental Conduct Code § 3.218. Copies are available at the Board office, and it is posted on the Board's website at www.sfgov.org/boa. Please address comments to Executive Secretary Robert Feldman, Board of Appeals, 1660 Mission Street #3036, SF, CA 94103. Telephone (415) 575-6880, fax (415) 575-6885, or email at robert.feldman@sfgov.org.

SPEAKERS: Robert Feldman, Executive Secretary, reported that the Office of the City Attorney requested the matter be continued to a time when they are able to advise all boards and commissioners on the adoption of statements. No public comment.

(4) ADDENDUM ITEMS:

(4A) REHEARING REQUEST: 572 San Jose Avenue
Appeal No(s). 03-194, Tehlirian vs. DBI, PCD

Letter Ara Tehlirian, co-appellant, requesting rehearing of Appeal No(s). 03-194, decided March 3, 2004. At that time, upon motion by President Chin, the Board voted 3-2 (Commissioners Shoemaker & Sugaya dissented) to overrule the denial and grant the permit with conditions as presented by the appellant. Four votes being required to overrule a departmental action, the denial of the subject permit was upheld. Project: on two-unit building, horizontal and vertical addition, 335sf on ground floor, 368sf on 2nd floor, and 1038sf on 3rd floor; electrical, plumbing, and mechanical under separate permit. DR Requestor(s): Jose Morales. **Note:** The public hearing on this rehearing request was held and closed on March 31, 2004.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-0-1 (Commissioner Shoemaker dissented) to reschedule the request to June 9, 2004.

SPEAKERS: Ara Tehlirian, requestor, reported on his efforts to reach an agreement with his tenant. Jose Morales, DR Requestor(s) and tenant, asked the Board to deny the request for rehearing and said he did not want to continue trying to negotiate an agreement since the parties are in complete disagreement.

(4B) REHEARING REQUEST: 1120-1122 Vallejo Street
Appeal No(s). V03-209, Ferreira vs. ZA

Letter from Chris Moscone, attorney for appellants Catherine and Ann Ferreira, requesting rehearing of Appeal No(s). V03-209, decided March 24, 2004. At that time, upon motion by Commissioner Sugaya, the Board voted 5-0 to uphold the variance with the following condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature. Variance Holder(s): Susan Lee, Jennifer Cherk & Jay Capela.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 4-1 (Commissioner Chin dissented) to grant the rehearing request, and to set the rehearing for June 30, 2004.

SPEAKERS: Chris Moscone, attorney for appellants/requestors, said that a rehearing is justified so that he can respond to the discussion between Mr. Cherk the architect and the Board. Jay Capela, co-variance holder, said he feels there is no justification for a rehearing since all the issues were discussed and no new evidence has been offered, and that there is a structural reason that the proposed revision can't be done. No public comment.

(4C) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 239 Santa Rosa Avenue
Permit issued on November 20, 2003
Last day to appeal was December 5, 2003
Jurisdiction request received on April 6, 2004

Letter from Lan Ying Li, asking that the Board take jurisdiction over Electrical Permit No(s). E200311205875 for the purpose of filing a penalty appeal. Project: 5 lights, 8 switches, 6 receptacles, remodel bathroom and kitchen, new furnace and water heater.

ACTION: This matter was withdrawn by the requestor(s).

SPEAKERS: None.

ITEMS (4D) & (4E) SHALL BE HEARD TOGETHER:

(4D) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 467 Duncan Street
Variance granted on June 9, 2003
Last day to appeal was June 19, 2003
Jurisdiction request received on April 23, 2004

Letter from Michael Martensen, Requestor(s), asking that the Board take jurisdiction over Variance Case No(s). 2003.0279V. Project: construction of a horizontal addition at the front of the existing single-family house, construction of cylindrical dormers and a spiral staircase connected by a catwalk and glass railing on the east side of the existing roof that extends beyond the front of the existing house, and construction of a deck extending from the front façade of the building. Variance Holder(s): Michael Logue. Subject Property Owner(s): Striebeck & Miyata.

(4E) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 467 Duncan Street
Permit issued on Feb. 10, 2004
Last day to appeal was Feb. 25, 2004
Jurisdiction request received on April 23, 2004

Letter from Michael Martensen, Requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2003/03/26/0782S. Project: on single-family house, vertical and horizontal extension. Permit Holder(s): Striebeck & Miyata.

ACTION: These matters were withdrawn by the requestor(s).

SPEAKERS: None

ITEMS (5A) & (5B) SHALL BE HEARD TOGETHER:

(5A) **APPEAL NO. 03-051**

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing the determination dated March 19, 2003, addressed to Andrew Zacks, that the subject property has a legal authorized use of 14 residential guest rooms and 1 dwelling unit, that residential guest rooms constitute "group housing" under § 209.2 of the Planning Code, that this group housing constitutes a permitted conditional use since it was established prior to the enactment of Conditional Use (CU) requirements for said use, and that this permitted conditional use shall be considered abandoned 3 years from the last legal date of residency of the last resident of said guest rooms. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

(5B) **APPEAL NO. 03-066**

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing a determination dated April 24, 2003, addressed to Andrew Zacks, that the proposed physical modifications to various residential guest rooms at the subject property would result in less viable guest rooms and would constitute a partial conversion of the structure to single family-use from its current legal authorized use of 14 residential guest rooms and 1 dwelling unit, in violation of Planning Code. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule both appeals to June 23, 2004.

SPEAKERS: None

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 03-197**

ALL-CITY CONSTRUCTION CO., Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 2/4/04. FOR FURTHER CONSIDERATION TODAY.

(6B) **APPEAL NO. 03-199**

HOWARD & SUSIE WOO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	641 – 27th Avenue. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 2/4/04. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 2-3 (Commissioner Shoemaker, Vice President Sugaya & Commissioner Saunders dissented) to overrule DBI with a finding that there was a demolition that exceeded the permit, but that there was no unlawful demolition, with additional findings as read into the record by Commissioner Chin. Four votes being required to overturn a departmental action, the motion failed, and DBI's Notice of Decision was upheld.

SPEAKERS: Ken Harrington, DBI, urged the Board to uphold the Director's determination and said the appellants have admitted there was a demolition without an issued permit. Joel Yodowitz, attorney for appellant All-City Construction, said the Board's decision need not be all or nothing, and that the City will not compromise and is dealing in bad faith. Public comment: Roy Guinane said he had spoken to a deputy city attorney who had said the Board can only uphold or overrule the decision but can't amend the conditions imposed since these are set forth in the ordinance and there is no discretion to alter them. Jake McGoldrick said the Board must follow the law and it cannot alter the sanctions clearly set forth in the law. Bruce Bonacker said he is part of a group trying to draft a new ordinance concerning illegal demolitions, and he hopes they can create something that serves the public better than the present ordinance.

(7) APPEAL NO. 04-020

STEPHEN D. SMITH, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	1480 Page Street. Appealing the denial on March 2, 2004, of a Permit to Remove and Replace One (1) Tree. ORDER NO. 174,691. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to uphold the denial of the subject permit.

SPEAKERS: Appellant did not appear for the hearing. Tony Wolcott, AUF, DPW BUF, described the subject tree and listed the reasons for his decision to deny the permit to replace it. No public comment.

ITEMS (8A), (8B) & (8C) SHALL BE HEARD TOGETHER:

(8A) APPEAL NO. V03-132

WILLIAM CANIHAN, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	891 Carolina Street. Appealing the denial on August 22, 2003, of a Front Setback Variance (proposal is to construct a new 3rd level that intrudes into the required front setback area; the project also proposes a new 4th level addition, and one additional dwelling unit on an existing single-family, two-story over garage structure, which are not subjects of the variance request). VARIANCE CASE NO. 2002.0933V. FOR HEARING TODAY.

(8B) APPEAL NO. 03-137

WILLIAM CANIHAN, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	891 Carolina Street. Appealing a determination dated August 20, 2003, disapproving Building Permit Application No(s). 2002/05/08/6090 (construction of a 2nd dwelling unit, and a 2-story vertical and horizontal addition on an existing single-family, two-story over garage structure). FOR HEARING TODAY.

(8C) **APPEAL NO. 03-155**

WILLIAM CANIHAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL § 14 Party: KRISTINE GARDNER	891 Carolina Street Appealing the denial on Sept. 30, 2003, of Site Permit to Alter a Building (substantial alteration of existing dwelling from one unit to two units; addition of top story). APPLICATION NO. 2002/05/08/6090S. FOR HEARING TODAY.

ACTION: All three appeals were withdrawn by the appellant.

SPEAKERS: None.

(9) **APPEAL NO. 04-005**

JIMMY CHU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	425 Junipero Serra Boulevard. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Jan. 5, 2004, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that Building Permit Application No(s). 2003/02/13/7355, 2003/05/14/4558 and 2003/06/20/7261 are hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-1 (Commissioner Shoemaker dissented) to continue the appeal to June 9, 2004 with the public hearing closed.

SPEAKERS: Ken Harrington, DBI, asked for equal time to rebut the due process argument made at the previous meeting by counsel for the appellant. He listed the credential of the hearing officer and said there was no denial of due process and that the building had been demolished except for a small wall at the rear so that in fact the construction results in a totally new house without the appellant having gone through the required procedures. David Silverman, attorney for All-City Construction, denied that there has been fraud and described the additional permits his client had obtained at the direction of the building inspector, all of which were approved by the DBI. He also described his efforts to reach an agreement with the neighborhood association on the design of the house. Public comment: Norman Meunier described the neighborhood association's efforts to negotiate and said that they have been stonewalled. Roy Guinane said that it appears the plans were drawn not by the appellant's daughter but by someone associated with Jimmy Jen. Bob Mosher said he saw the house come down and it appeared that the demolition was the intention from the beginning, and that the appellant may still rebuild what was illegally demolished. Paul

Conroy said this was a demolition and nothing else, and that DBI's decision is accurate. Miko Mosher said she can see the site from her window, and it appeared that the demolition was carefully planned and organized and not an accident. Jake McGoldrick said the hearing officer was clear, and that the law should be upheld. Karen Niglio said the Merced Manor association strongly supports the decision. Annemarie Conroy described what remained of the demolished house and said the façade left standing is like a false front on a movie set. Andrew Thanos said the dry rot excuse for demolition is a classic one for illegal demolitions. Don David, engineer for appellant, said there was dry rot and that people do not understand the relevant Building Code provisions. Jacqueline Young de Roover said the appellant should be permitted to go forward. Rodrigo Santos of the BIC said he is optimistic that the parties can reach an agreement. Mary Meunier said the neighborhood association meetings are open to the public and that the appellant can attend, and that he is a contractor and knows the rules well.

Craig Nikitas, AZA, said the Planning Department has not signed off on the rear yard and that a variance is needed to allow new construction in the yard.

(10) **APPEAL NO. 04-017**

YVONNE & IRWIN COTTON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2669 Sutter Street. Appealing the suspension on February 13, 2004, of Building Permit Application No(s). 2003/08/29/3479. Reason(s) for suspension: the above-referenced permit was approved in error over the counter by the Planning Dept., and the permit applicant knowingly abused the process to legalize a fake driveway. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 4-0 to recuse Commissioner Chin. Afterwards, upon motion by Vice President Sugaya, the Board voted 2-2-1 (President Harrington and Commissioner Saunders dissented, Commissioner Chin recused) to uphold the suspension of the subject permit.

SPEAKERS: Brett Gladstone, attomey for appellants, asked for a continuance, and when denied, proceeded to explain the history of the driveway and how it complies with the law and is a benefit to the appellants, their tenants and the neighborhood; he also said the rear portion of the driveway is definitely wide enough for cars. Steve Williams urged the Board to go forward with the hearing since the neighbors in support of the DBI were present and had waited hours to testify. Craig Nikitas, AZA, said he is neutral on the issue of continuance, and then described the driveway and said it is too narrow for ordinary auto use since cars would hit the pipes and utility boxes on the building wall, and no parking is permitted in the rear yard. The Codes do not specify exactly what width is necessary for a driveway, only that the width be sufficient. He also said no variances had ever been granted to allow parking in the rear yard, and that a variance could not be granted now. Yvonne Cotton, co-appellant, said she modified the driveway as recommended by the planner, and that her 1973 VW could be parked in the rear. Public comment: Steve Williams said the rear building has never been a garage, and that it took a half hour to work a car through the passage way, and that the Fire Dept. said nothing can be stored in the rear building. Patrice Motley said a width of 5'3" is understandable to her since that is how tall she is; she said that that someone in the building told her that the small structure in the rear is not a garage but rather a storage space. Frank Kidder said he has seen the building used for storage and has never seen a car in it. Margie Lau says she has never seen a car in the small building. Joyce Lively said she was shocked to hear the passageway called a driveway since she has never seen a car use it. Michael Harrity said he is a tenant and his Porsche is parked in the driveway, though this is his second car and doesn't use it frequently. Christian Gravern said it is a driveway and motorcycles can easily use it as such; he then described the written attacks he received from a neighbor on professional legal stationary. Rebecca Spitz-Gravern said that the neighborhood leader is not professional.

Laurence Kornfield, CBI DBI, said that he and Sr. Inpsector Leo McFadden had made a site visit, and that the Building Code is silent on how wide a driveway must be, and that it appears the building in the rear was once a carriage house and now it looks like a driveway and garage.

(11) **APPEAL NO. 04-019**

OCEAN PARC VILLAGE HOMEOWNER'S ASSOCATION, Appellant(s) vs. PLANNING DEPARTMENT, Respondent	730 Great Highway. Protesting the issuance on March 8, 2004, to Tom and Breda MacDonald & KTH LLC, Coastal Zone Permit Authorization (proposal is to construct a new three-story, four-unit building approximately 32 feet tall on a vacant lot). CASE NO. 2003.1009P. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the appeal to August 25, 2004 at the written request of the parties.

SPEAKERS: None.

(12) **APPEAL NO. 04-021**

EDWIN HOUTKOOPER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2258 Beach Street. Protesting the issuance on March 9, 2004, to Richard Garcia, Permit to Alter a Building (on single-family house: revisions and clarifications to supercede existing permit no(s). 9822604, 98251205, 9909806, 2000/04/25/8211, 2000/12/18/8145, 2001/03/28/5423, 2001/11/20/3576, 2001/11/20/3577, 2002/09/19/6941, 2002/09/27/7692, 2002/11/14/1488, and 2002/11/14/1489 to achieve final inspection). APPLICATION NO. 2003/07/02/8662. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to uphold the subject permit and to adopt the Planning Commission's findings of Feb. 13, 2004.

SPEAKERS: Edwin Houtkooper, appellant, said he opposes a final inspection because of the many violations still uncorrected, and because City employees have not done their duty and enforced the Code. Graham Maloney, attorney for permit holder, said that the work has been completed for a year, and that the permit holder is living in the building, and that the Planning Commission has approved the project, and that it is fully Code compliant. Larry Paul, architect for permit holder, said they obtained all the required permits, and that the only issue remaining is the decorative features on the greenhouse.

Laurence Kornfield, CBI DBI, explained the consolidation permit and that the elevator permit should have gone to Planning for review though the Planning Commission has approved the project. Craig Nikitas, AZA, said that the change in elevations should have a required a 311 notice, but that the Planning Commission had not granted DR, and although the department has made some errors, the Planning Commission did approve it. No public comment.

There being no further business, President Harrington adjourned the meeting at 10:08 p.m.

Kathleen Harrington

Kathleen Harrington, President

Robert H Feldman

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, MAY 19, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS:

05-14-04A10:50 RCVD

(3A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

968-970 Hampshire Street
Permit issued on April 9, 2004
Last day to appeal was April 26, 2004
Jurisdiction request received May 3, 2004

Letter from Raquel Fox, attorney for Requestor(s) David Garcia, asking that the Board take jurisdiction over Building Permit Application No(s). 2004/04/09/0939. Project: on 2-unit residential building, removal of existing interior walls that are non-bearing as well as removal of kitchen; removal of non-conforming unit. Permit Holder(s): Tim Berkley.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

143-145 Pfeiffer Street
Permit issued on March 18, 2004
Last day to appeal was April 2, 2004
Jurisdiction request received May 5, 2004

Letter from Felix & Carol Arts, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/03/18/9082. Project: on 2-unit building, interior tenant improvements to include remodel of kitchen/bath; electrical/plumbing under separate permit. Permit Holder(s): Shaun Weston.

(4) **APPEAL NO. 03-190**

TOM KATZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	616 Shrader Street. Appealing the suspension on Aug. 6, 2003, of BPA Nos. 2003/08/06/1364 & 2003/07/23/0191. Reason(s) for suspension: the 1st permit was approved erroneously, and the 2nd permit requires further review by the Planning Dept. since both permits did not receive residential guideline review by Planning Dept. preservation technical specialists, which is required for the replacement of windows on architecturally significant buildings like the subject property. JURISDICTION GRANTED 11/12/03. PUBLIC HEARING CLOSED ON 2/11/04. FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. V04-022**

SARA SHAPIRO, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	62 Eastwood Drive. Appealing the denial on March 18, 2004, of a Rear Yard Variance (proposal is to legalize a one-story rear addition to a one-story, single-family dwelling). VARIANCE CASE NO. 2003.1023V. FOR HEARING TODAY.

(6) **APPEAL NO. 04-024**

JOHN ATWATER & DIANA NELSON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	3746 Jackson Street. Appealing a determination dated March 16, 2004, addressed to David Cincotta, that the proposed expansion, which is not within the front portion of the property where a height increase is permitted, and which, in any case, extends above the 35 foot absolute height limit, would not be allowed under Planning Code §§ 261(b)(1), 261(c), 261(c)(1), and 261(c)(2). FOR HEARING TODAY.

(7) **APPEAL NO. 04-025**

ELEONORA BLETNITSKY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	101 – 17th Avenue. Protesting the issuance on March 18, 2004, to James Riley, Permit to Alter a Building (on a residential duplex: revision to BPA No(s). 2001/06/20/1979, to construct new fence 9'6" high for 20', and 6' at 10' high; return approximately 2'6" into corner of building; move security gate back 11' into alley way). APPLICATION NO. 2004/03/18/8966. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: **May 13th, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
ARNOLD Y.K. CHIN	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**
DOUGLAS SHOEMAKER	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

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SPECIAL NOTES

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Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when t is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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Board of Appeals

May 19, 2004 (Cancelled Meeting)

NOTICE OF CANCELLED MEETING

The Board of Appeals has **CANCELLED** the meeting of May 19th, 2004. All cases previously scheduled for May 19th, 2004 have been rescheduled to various dates in June 2004.

The next regular meeting is scheduled for **Wednesday, May 26th, 2004, City Hall, Room 416, 5:00 p.m.**, One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any scheduling or appeal matter.

FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

Date Posted: **May 17th, 2004**

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, MAY 26, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:**

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:** None.

(4) **APPEAL NO. 01-115**

THERESA ISSERMAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	700 Vermont Street. Protesting issuance on June 20, 2001, to Raymond & Hazel Guaraglia, Permit to Alter a Building (demolish existing non-compliant residential units per Notice of Violation No. 200114983; remove all utilities to ground level; convert to original commercial space with no structural work to be done). APPLICATION NO. 2001/06/20/1935. PUBLIC TESTIMONY HEARD 6/19/03. FOR FURTHER CONSIDERATION TODAY.

(5) APPEAL NO. 04-014

KAREN DUGGAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	233-235 Corbett Avenue. Appealing the denial on Feb. 24, 2004, of a Permit to Alter a Building (on two-family house: comply with notice of violation, correct record to show existing use of two-family dwelling plus housekeeping). APPLICATION NO. 2004/02/06/5823. FOR HEARING TODAY.

(6) APPEAL NO. 04-026

RICHARD & DIANE FELDER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	482 Bayview Circle. Protesting the issuance on March 25, 2004, to Ive Freeman, Permit to Alter a Building (on single-family house: install a hot tub in back yard; no plumbing; electrical work for power; deck/slab existing). APPLICATION NO. 2004/03/25/9598. FOR HEARING TODAY.

(7) APPEAL NO. 04-029

MALANA MOBERG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	899 North Point. Protesting the issuance on March 30, 2004, to Galway Properties II, Permit to Demolish a Building (one-story gas station with 1,650sf of ground floor area). APPLICATION NO. 2003/04/25/3194. FOR HEARING TODAY.

ADJOURNMENT.

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Date posted: **May 20th, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
ARNOLD Y.K. CHIN	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**
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Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES- WEDNESDAY, MAY 26, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, and Commissioner Sabrina Saunders.

ABSENT: Commissioner Douglas Shoemaker.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Craig NIkitas, Acting Zoning Administrator, Planning Department (AZA, PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: None.

(3) **ADDENDUM ITEMS:** None.

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(4) **APPEAL NO. 01-115**

THERESA ISSERMAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	700 Vermont Street. Protesting issuance on June 20, 2001, to Raymond & Hazel Guaraglia, Permit to Alter a Building (demolish existing non-compliant residential units per Notice of Violation No. 200114983; remove all utilities to ground level; convert to original commercial space with no structural work to be done). APPLICATION NO. 2001/06/20/1935. PUBLIC TESTIMONY HEARD 6/19/03. FOR FURTHER CONSIDERATION TODAY.

ACTION: Appeal withdrawn by the appellant.

(5) APPEAL NO. 04-014

KAREN DUGGAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	233-235 Corbett Avenue. Appealing the denial on Feb. 24, 2004, of a Permit to Alter a Building (on two-family house: comply with notice of violation, correct record to show existing use of two-family dwelling plus housekeeping). APPLICATION NO. 2004/02/06/5823. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Shoemaker absent) to overrule the denial and grant the permit with a finding that the subject housekeeping unit is pre-existing.

SPEAKERS: Jeremy Paul, agent for appellant, described the subject housekeeping unit and gave a history of it and the relevant permit history and evidence of the unit's existence since 1917. Laurence Kornfield, CBI DBI, explained the Building Code provisions regarding housekeeping units and his observations on his site visit. No public comment.

(6) APPEAL NO. 04-026

RICHARD & DIANE FELDER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	482 Bayview Circle. Protesting the issuance on March 25, 2004, to Ive Freeman, Permit to Alter a Building (on single-family house: install a hot tub in back yard; no plumbing; electrical work for power; deck/slab existing). APPLICATION NO. 2004/03/25/9598. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to uphold the subject permit.

SPEAKERS: Marilyn Kalman, attorney for appellant, explained the history of the subject hot tub and the discussions between her client and the permit holder and the HOA. She also explained her client's concerns with the project which is located next to her client's living room window. Ive Freeman, permit holder, described his efforts to address the appellant's concerns and the Code requirements, and said that he would remove any portion of the deck that violates the Planning Code. No public comment.

Laurence Kornfield, CBI DBI, said that hot tub installations of this type do not require permits unless special electrical or plumbing work is required, which is not the case here. Craig Nikitas, AZA, described the Planning Code's rear yard requirements which have not been violated by the hot tub, which does not appear to be located in the rear yard.

(7) **APPEAL NO. 04-029**

MALANA MOBERG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	899 North Point. Protesting the issuance on March 30, 2004, to Galway Properties II, Permit to Demolish a Building (one-story gas station with 1,650sf of ground floor area). APPLICATION NO. 2003/04/25/3194. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-0-1 (Commissioner Shoemaker absent) to reschedule the appeal to June 9, 2004.

SPEAKERS: Malana Moberg, appellant, requested a rescheduling based on the absence of Commissioner Shoemaker. Joel Yodowitz, attorney for permit holder, asked that the hearing go forward with four Board members.

There being no further business, President Harrington adjourned the meeting at 6:00 p.m.

Kathleen Harrington

Kathleen Harrington, President

Robert H Feld

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

Department of Child Support Services >> Forms

Board of Appeals

June 09, 2004

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, JUNE 9, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST:

572 San Jose Avenue; Appeal No(s). 03-194; Tehlirian vs. DBI, PCD

Letter Ara Tehlirian, co-appellant, requesting rehearing of Appeal No(s). 03-194, decided March 3, 2004. At that time, upon motion by President Harrington, the Board voted 3-2 (Commissioners Shoemaker & Sugaya dissented) to overrule the denial and grant the permit with conditions as presented by the appellant. Four votes being required to overrule a departmental action, the denial of the subject permit was upheld. Project: on two-unit building, horizontal and vertical addition, 335sf on ground floor, 368sf on 2nd floor, and 1038sf on 3rd floor; electrical, plumbing, and mechanical under separate permit. DR Requestor(s): Jose Morales.

Note: The public hearing on this rehearing request was held and closed on March 31, 2004.

(3B) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

968-970 Hampshire Street; Permit issued on April 9, 2004

Last day to appeal was April 26, 2004; Jurisdiction request received May 3, 2004

Letter from Raquel Fox, attorney for Requestor(s) David Garcia, asking that the Board take jurisdiction over Building Permit Application No(s). 2004/04/09/0939. Project: on 2-unit residential building, removal of existing interior walls that are non-bearing as well as removal of kitchen; removal of non-conforming unit. Permit Holder(s): Tim Berkley.

ITEMS (4A), (4B) & (4C) SHALL BE HEARD TOGETHER:

(4A) **APPEAL NO. 03-056**

GREGORY ERLACH, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	531 - 43rd Avenue. Protesting the issuance on March 27, 2003, to Alan Freebury, Permit to Alter a Building (on two-family house: install 5' high fence on side of front yard, treated vertical posts on 4' centers, redwood lattice full height between verticals, pre-formed 3' metal footings driven into ground floor for verticals, capped by treated 2" X 4" (on side) tying 5 posts together; 8'6" free standing; rest next to building) APPLICATION NO. 2003/03/27/0836. FOR HEARING TODAY.

(4B) **APPEAL NO. 03-067**

GREGORY ERLACH, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	531 - 43rd Avenue. Protesting the issuance on May 2, 2003, to Alan Freebury, Permit to Alter a Building (on two-family house: rebuild existing rear stairs in-kind). APPLICATION NO. 2003/05/02/3742.

PLANNING DEPT. APPROVAL	FOR HEARING TODAY.

(4C) **APPEAL NO. 04-032**

ALAN FREEBURY, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	531 - 43rd Avenue. Appealing a determination dated April 6, 2004, addressed to Alan Freebury, that Building Permit Application No(s). 2003/05/02/3742 (rebuild existing rear stairs in kind) was approved by the Planning Department in error on the basis of an inaccurate application, that the subject rear stairs as constructed in 1988 without the benefit of permit did require a variance at that time, and that a variance should have been sought and granted prior to Planning approval of the Building Permit, and that a property line firewall may be required for any legal permit to replace the existing illegally constructed stairs which may require neighborhood notification and a variance. FOR HEARING TODAY.

(5) **APPEAL NO. 03-154**

ULYSSES NAPURI dba "LAST STOP SOUVENIR", Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	498 Beach Street. Appealing the denial on May 5, 2003, of a Sidewalk Display Merchandise Permit. ORDER NO. 174,098. JURISDICTION GRANTED SEPT. 17, 2003. PUBLIC HEARING HELD & CLOSED ON DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 04-031**

CARL OLSON, Appellant(s)	NE corner of 3rd Street & Mission

vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	Street, NE corner of Geary Street & Stockton Street, SE corner of King Street & 3rd Street, and 2 locations on Market Street near Powell Street, 835 & 865 Market Street. Protesting the issuance on April 7, 2004, to JC Decaux San Francisco Inc., Public Service Advertising Kiosk Permit. PERMIT NO. 04PSK-001. FOR HEARING TODAY.

(6B) APPEAL NO. 04-033

WESTFIELD SAN FRANCISCO CENTRE, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	NE corner of 3rd Street & Mission Street, NE corner of Geary Street & Stockton Street, SE corner of King Street & 3rd Street, and 2 locations on Market Street near Powell Street, 835 & 865 Market Street. Protesting the issuance on April 7, 2004, to JC Decaux San Francisco Inc., Public Service Advertising Kiosk Permit. PERMIT NO. 04PSK-001. FOR HEARING TODAY.

(7) APPEAL NO. 03-196

FRANCIS DAVID RYAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1018 Clayton Street. Protesting the issuance on Sept. 22, 2003, to Gunther Dertz, Permit to Alter a Building (on single-family house: construct 7' X 36" high one-hour fire rated parapet on roof at south side). APPLICATION NO. 2003/09/22/5414. JURISDICTION GRANTED 11/12/03. **Note:** On March 24, 2004, the Board voted 3-2 to uphold the subject permit. On April 28, 2004, the Board voted 4-1 to grant the appellant's rehearing request,

	and to set the rehearing for June 9, 2004. FOR REHEARING TODAY.

(8) **APPEAL NO. 04-005**

JIMMY CHU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	425 Junipero Serra Boulevard. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Jan. 5, 2004, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that Building Permit Application No(s). 2003/02/13/7355, 2003/05/14/4558 and 2003/06/20/7261 are hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 5/12/04. FOR FURTHER CONSIDERATION TODAY.

(9) **APPEAL NO. 04-025**

ELEONORA BLETNITSKY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	101 - 17th Avenue. Protesting the issuance on March 18, 2004, to James Riley, Permit to Alter a Building (on a residential duplex: revision to BPA No(s). 2001/06/20/1979, to construct new fence 9'6" high for 20', and 6' at 10' high; return approximately 2'6" into corner of building; move security gate back 11' into alley way). APPLICATION NO. 2004/03/18/8966. FOR HEARING TODAY.

(10) **APPEAL NO. 04-028**

BRIAN BASINGER, Appellant(s)	65-67 Pearl Street.

vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	Protesting the issuance on February 5, 2004, to Jan Neufeld, Permit to Alter a Building (on two-unit building: install new garage according to attached drawings dated 12/9/03). APPLICATION NO. 2004/02/05/5723. JURISDICTION GRANTED 03/24/04. FOR HEARING TODAY.

(11) **APPEAL NO. 04-029**

MALANA MOBERG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	899 North Point. Protesting the issuance on March 30, 2004, to Galway Properties II, Permit to Demolish a Building (one-story gas station with 1,650sf of ground floor area). APPLICATION NO. 2003/04/25/3194. FOR HEARING TODAY.

(12) **APPEAL NO. 04-030**

MARVIN LAU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	714 - 22nd Street. Appealing the denial on April 15, 2004, of a Permit to Alter a Building (on 3-unit residential building: install 12 vinyl windows in kind into existing frames; no structural changes; windows face front and are visible from the street; if applicable, bedroom windows shall comply with § 310.4 for rescue). APPLICATION NO. 2004/04/15/1367. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: **May 27th, 2004**

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES- WEDNESDAY, JUNE 9, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, and Commissioner Douglas Shoemaker.

ABSENT: Commissioner Sabrina Saunders.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Craig NIkitas, Acting Zoning Administrator, Planning Department (AZA, PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI DBI); Jacob Szeto, Dept. of Public Works Bureau of Street Use & Mapping (DPW BSM); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) **PUBLIC COMMENT**:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS & QUESTIONS**:

SPEAKERS: None.

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(3) **ADDENDUM ITEMS**:

(3A) **REHEARING REQUEST:** 572 San Jose Avenue
Appeal No(s). 03-194, Tehlirian vs. DBI, PCD

Letter Ara Tehlirian, co-appellant, requesting rehearing of Appeal No(s). 03-194, decided March 3, 2004. At that time, upon motion by President Harrington, the Board voted 3-2 (Commissioners Shoemaker & Sugaya dissented) to overrule the denial and grant the permit with conditions as presented by the appellant. Four votes being required to overrule a departmental action, the denial of the subject permit was upheld. Project: on two-unit building, horizontal and vertical addition, 335sf on ground floor, 368sf on 2nd floor, and 1038sf on 3rd floor; electrical, plumbing, and mechanical under separate permit. DR Requestor(s): Jose Morales.
Note: The public hearing on this rehearing request was held and closed on March 31, 2004.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to continue the request to July 21, 2004 with the public hearing still to remain closed.

SPEAKERS: Brett Gladstone, attorney for appellants, requested a continuance to allow for settlement talks. Raquel Fox, attorney for DR Requestor, objected to a continuance and asked the Board to take up the request and then deny it for lack of any new evidence being offered, and because the Board's decision should stand and no settlement seems likely.

(3B) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:** 968-970 Hampshire Street
Permit issued on April 9, 2004
Last day to appeal was April 26, 2004
Jurisdiction request received May 3, 2004

Letter from Raquel Fox, attorney for Requestor(s) David Garcia, asking that the Board take jurisdiction over Building Permit Application No(s). 2004/04/09/0939. Project: on 2-unit residential building, removal of existing interior walls that are non-bearing as well as removal of kitchen; removal of non-conforming unit. Permit Holder(s): Tim Berkley.

ACTION: Withdrawn by the requestor.

SPEAKERS: None.

ITEMS (4A), (4B) & (4C) SHALL BE HEARD TOGETHER:

(4A) **APPEAL NO. 03-056**

GREGORY ERLACH, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	531 – 43rd Avenue. Protesting the issuance on March 27, 2003, to Alan Freebury, Permit to Alter a Building (on two-family house: install 5' high fence on side of front yard, treated vertical posts on 4' centers, redwood lattice full height between verticals, pre-formed 3' metal footings driven into ground floor for verticals, capped by treated 2" X 4" (on side) tying 5 posts together; 8'6" free standing; rest next to building) APPLICATION NO. 2003/03/27/0836. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the subject permit with a finding that the fence is 75% open where it is visible, and that the height of the fence is measured from the top of the retaining wall.

(4B) **APPEAL NO. 03-067**

GREGORY ERLACH, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	531 – 43rd Avenue. Protesting the issuance on May 2, 2003, to Alan Freebury, Permit to Alter a Building (on two-family house: rebuild existing rear stairs in-kind). APPLICATION NO. 2003/05/02/3742. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the subject permit on condition that the 1st floor railing be pulled in 3 feet from the property line so as to comply with the Building and Fire Codes.

(4C) **APPEAL NO. 04-032**

ALAN FREEBURY, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	531 – 43rd Avenue. Appealing a determination dated April 6, 2004, addressed to Alan Freebury, that Building Permit Application No(s). 2003/05/02/3742 (rebuild existing rear stairs in kind) was approved by the Planning Department in error on the basis of an inaccurate application, that the subject rear stairs as constructed in 1988 without the benefit of permit did require a variance at that time, and that a variance should have been sought and granted prior to Planning approval of the Building Permit, and that a property line firewall may be required for any legal permit to replace the existing illegally constructed stairs which may require neighborhood notification and a variance. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination with findings as read into the record by Commissioner Chin.

SPEAKERS: Craig Nikitas, AZA, explained the determination and the nature of the permits under appeal, which need the approval of a variance after proper notice to neighbors. Alan Freebury, permit holder, gave a history of the use of the building and its deck and steps and his permits to alter the stairs, which provide emergency egress for his wife's parents who reside in one of the units. Ray Erlach, brother of appellant, urged the Board to overrule the permits and to uphold the determination because the permits were approved in error without the granting of a variance, and because of misrepresentations by the owner and the impact of the stairs on views and privacy of his brother's tenants. Laurence Kornfield, CBI DBI, reported on the building inspector's report as to the number of legal dwelling units in the building and the lack of egress requirements. No public comment.

(5) **APPEAL NO. 03-154**

ULYSSES NAPURI dba "LAST STOP SOUVENIR", Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	498 Beach Street. Appealing the denial on May 5, 2003, of a Sidewalk Display Merchandise Permit. ORDER NO. 174,098. JURISDICTION GRANTED SEPT. 17, 2003. PUBLIC HEARING HELD & CLOSED ON DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to continue the appeal to August 11, 2004.

SPEAKERS: Maria Napuri, wife of appellant, requested the continuance.

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 04-031**

CARL OLSON, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	NE corner of 3rd Street & Mission Street, NE corner of Geary Street & Stockton Street, SE corner of King Street & 3rd Street, and 2 locations on Market Street near Powell Street, 835 & 865 Market Street. Protesting the issuance on April 7, 2004, to JC Decaux San Francisco Inc., Public Service Advertising Kiosk Permit. PERMIT NO. 04PSK-001. FOR HEARING TODAY.

(6B) **APPEAL NO. 04-033**

WESTFIELD SAN FRANCISCO CENTRE, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	NE corner of 3rd Street & Mission Street, NE corner of Geary Street & Stockton Street, SE corner of King Street & 3rd Street, and 2 locations on Market Street near Powell Street, 835 & 865 Market Street. Protesting the issuance on April 7, 2004, to JC Decaux San Francisco Inc., Public Service Advertising Kiosk Permit. PERMIT NO. 04PSK-001. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 3-1-1 (President Harrington dissented, Commissioner Saunders absent) to uphold the subject permit with a finding that there are no grounds for this appeal.

SPEAKERS: Carl Olson, appellant, explained that he protests the advertising kiosks because the revenue from them supports the installation and maintenance of public toilets which he objects to on Haight Street near his building. Jacob Szeto, DPW BSM, explained how the public toilet program works in providing public toilets at no cost to the City since 1995. Fred Christoun, agent for permit holder, appeared in support of DPW BSM. Public comment: Susan Strollis said she supports the appeal to deter the public toilets in front of her building on Haight Street, and said the downtown is saturated with advertising kiosks, and that the notification process is inadequate. Dave Grenell from Supervisor Gonzalez's office said that the argument opposing the kiosks does not seem compelling, and asked the Board to uphold DPW BSM. Richard Margery said the kiosks should not be situated near private property, and that the matter has been thoroughly vetted by the Board of Supervisors. Jim Rhoads said he agrees with the earlier speakers in opposition to the kiosks. Flip Sarrow of the Haight-Ashbury Merchants Association said his group has been fighting for public toilets on Haight to serve visitors and take pressure off merchants.

(7) **APPEAL NO. 03-196**

FRANCIS DAVID RYAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1018 Clayton Street. Protesting the issuance on Sept. 22, 2003, to Gunther Dertz, Permit to Alter a Building (on single-family house: construct 7' X 36" high one-hour fire rated parapet on roof at south side). APPLICATION NO. 2003/09/22/5414. JURISDICTION GRANTED 11/12/03. **Note:** On March 24, 2004, the Board voted 3-2 to uphold the subject permit. On April 28, 2004, the Board voted 4-1 to grant the appellant's rehearing request, and to set the rehearing for June 9, 2004. FOR REHEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the rehearing to June 23, 2004 at the written request of the parties.

SPEAKERS: None.

(8) **APPEAL NO. 04-005**

JIMMY CHU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	425 Junipero Serra Boulevard. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Jan. 5, 2004, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that Building Permit Application No(s). 2003/02/13/7355, 2003/05/14/4558 and 2003/06/20/7261 are hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 5/12/04. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the appeal to July 14, 2004.

SPEAKERS: David Silverman, attorney for permit holder, requested the rescheduling based on the absence of Commissioner Saunders. Ken Harrington, DBI, agreed to the rescheduling request.

(9) **APPEAL NO. 04-025**

ELEONORA BLETNITSKY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	101 – 17th Avenue. Protesting the issuance on March 18, 2004, to James Riley, Permit to Alter a Building (on a residential duplex: revision to BPA No(s). 2001/06/20/1979, to construct new fence 9'6" high for 20', and 6' at 10' high; return approximately 2'6" into corner of building; move security gate back 11' into alley way). APPLICATION NO. 2004/03/18/8966. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the subject permit.

SPEAKERS: Eleonora Bletnitsky, appellant, said her concern is the placement of the metal gate between her house and the permit holder's building which provides security by blocking the alley between the houses. She described the on-going debate between herself and the permit holder about the issue and asked the Board to prevent the gate from being moved back 11 feet. Peter Zouras, attorney for permit holder, explained why the gate must be moved, and said that his client and the appellant cannot agree on the matter, though they are trying to accommodate her. Public comment: Patty Thomas, former tenant of appellant, described how the gate prevented trash from being pulled out to the street, and provided security for the building. Gabriel Bletnitsky, son of appellant, said that the permit holder has made many complaints to the City about his mother's building, and that there are many issues between the two households.

(10) APPEAL NO. 04-028

BRIAN BASINGER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	65-67 Pearl Street. Protesting the issuance on February 5, 2004, to Jan Neufeld, Permit to Alter a Building (on two-unit building: install new garage according to attached drawings dated 12/9/03). APPLICATION NO. 2004/02/05/5723. JURISDICTION GRANTED 03/24/04. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 4-0-1 (Commissioner Saunders absent) to continue the appeal to the indefinite calendar (call of chair) with the public hearing closed.

SPEAKERS: Brian Basinger, appellant, asked for consideration of his appeal because of the dire health issues of himself and his partner, both of whom are deteriorating and need quiet during the next few months, free of the construction noise the permit work will cause. Denise Leadbetter, attorney for permit holder, described the offers made to the appellant that have not been accepted, and said they are trying to negotiate with the appellant's attorney. Vanessa Stimac, co-permit holder, explained the importance of the proposed garage for all the owners. Jan Neufeld, co-permit holder, further described the owner's need for the garage, and why they had filed under the Ellis Act. Tayler Bayer described how noisy the neighborhood is already and how difficult more noise could be to live with for the appellant. John Pollard, agent for permit holders, described the noise caused by the Octavia Street construction.

(11) APPEAL NO. 04-029

MALANA MOBERG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	899 North Point. Protesting the issuance on March 30, 2004, to Galway Properties II, Permit to Demolish a Building (one-story gas station with 1,650sf of ground floor area). APPLICATION NO. 2003/04/25/3194. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the subject permit on condition that the permit holder comply with all Dept. of Public Health, Dept. of Building Inspection, and Planning Dept. regulations, and on condition that the permit holder provide a copy of all soil reports filed with the City to the appellant.

SPEAKERS: Malana Moberg, appellant, explained the Planning Code provisions regulating replacement of service stations and said the demolition is not warranted to do soil testing and environmental review since no plans have been approved for a replacement building. Joel Yodowitz, attorney for permit holder, said that demolition is necessary to meet the Board of Supervisors' requirements to do environmental review, and that no replacement building is presently under review. Peter Cusack, agent for permit holder, explained why drilling deeply for samples is not possible with the building in place. Craig Nikitas, PD, described the history of the permit and appeal of the categorical exemption to the Board of Supervisors. Public comment: Robert Clutton said he is very concerned about any new use of the site, and that the developer is difficult to work with. Josephine Mazzucco said the Planning guidelines have gone by the way side and asked that they be followed. Jane Stavropoulos said the ignored environmental questions could affect the neighborhood for a 100 years. Thomas Branch said the neighbors aren't trying to hold up the developer, just slow him up since they have no knowledge of a replacement building. Roland Salvato said that a gas station cannot be removed without an exemption being granted and a new use approved after notice of hearings to neighbors.

(12) **APPEAL NO. 04-030**

MARVIN LAU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	714 – 22nd Street. Appealing the denial on April 15, 2004, of a Permit to Alter a Building (on 3-unit residential building: install 12 vinyl windows in kind into existing frames; no structural changes; windows face front and are visible from the street; if applicable, bedroom windows shall comply with § 310.4 for rescue). APPLICATION NO. 2004/04/15/1367. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 3-1-1 (Vice President Sugaya dissented, Commissioner Saunders absent) to overrule the denial and grant the subject permit. Four votes being required under the City Charter to overrule a departmental action, the denial of the subject permit was upheld.

SPEAKERS: Craig Nikitas, PD, explained that the department denied the application because it fails to comply with the condition imposed by the department based on the advice of the Landmarks Preservation Advisory Board for window replacement in the Dogpatch Historical District. Elena Koustas, agent for appellant, said the proposed vinyl windows will be appropriate on the building and that the cost of the wood windows was prohibitive. Jamie Sakamoto-Lau, wife of appellant, described how the dilapidated building has been improved since they purchased it, improving the neighborhood, and that the condition is not justified. Alex Koustas, agent for appellant, submitted photos showing other buildings with vinyl windows similar to those proposed.

There being no further business, President Harrington adjourned the meeting at 9:55 p.m.

Kathleen Harrington

Kathleen Harrington, President

Robert H Feld

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

Board of Appeals

June 16, 2004 (No Meeting)

PUBLIC NOTICE

The Board of Appeals has not scheduled a meeting for June 16th, 2004. The next regular meeting is scheduled for **Wednesday, June 23rd, 2004, City Hall, Room 416, 5:00 p.m.,** One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any other appeal matter.

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FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

Date Posted: **June 10th, 2004**

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, JUNE 23, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **SPECIAL ITEM(S):**

Correction of findings issued for Appeal No(s). 02-122, subject property at 122 Earl Street, by withdrawing notice of decision and findings issued on June 5, 2003, and ordering a new notice of decision and findings that accurately reflects the Board's action at its May 14, 2003 hearing. **Explanatory Document:** Memorandum dated June 2, 2004 to President Harrington and Board Members from Deputy City Attorney Catharine Barnes.

06-18-04A10:36 RCVD

(4) **ADDENDUM ITEM(S):**

(4A) **REHEARING REQUEST:**

641 – 27th Avenue
Appeal No(s). 03-197
All City Construction Co. vs. DBI

Letter from Joel Yodowitz, attorney for All City Construction Co., appellant(s), requesting rehearing of Appeal No(s). 03-197, decided May 12, 2004. At that time, upon motion by Commissioner Chin, the Board voted 2-3 to overrule DBI's notice of decision with a finding that a demolition took place which exceeded the scope of the permit, but which did not constitute an unlawful demolition, with additional findings as stated into the record by Commissioner Chin. Four votes being required to overturn a departmental action, the motion failed, and the decision by DBI was upheld. **Departmental Action:** Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1.

(5) APPEAL NO. 02-001

MAX LIMITED, LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	292 Ivy Street, a.k.a. 393-399 Grove Street, & 450 Gough Street, a.k.a. the "wood building." Appealing a determination dated December 18, 2001, issued to Peer Logic/Critical Path & Max Limited LLC regarding uses of the subject building in the Hayes-Gough District. **Note:** Pursuant to Superior Court Judgment, discussion and possible action to (1) set aside the Board's February 20, 2002 decision in Max Limited, LLC vs Zoning Administrator, Appeal No. 02-001 as ordered by the Court, and (2) accept withdrawal of Appeal No 02-001 or, alternatively, set the matter for rehearing in light of the Court's findings.

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) APPEAL NO. 03-051

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing the determination dated March 19, 2003, addressed to Andrew Zacks, that the subject property has a legal authorized use of 14 residential guest rooms and 1 dwelling unit, that residential guest rooms constitute "group housing" under § 209.2 of the Planning Code, that this group housing constitutes a permitted conditional use since it was established prior to the enactment of Conditional Use (CU) requirements for said use, and that this permitted conditional use shall be considered abandoned 3 years from the last legal date of residency of the last resident of said guest rooms. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

(6B) APPEAL NO. 03-066

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing a determination dated April 24, 2003, addressed to Andrew Zacks, that the proposed physical modifications to various residential guest rooms at the subject property would result in less viable guest rooms and would constitute a partial conversion of the structure to single family-use from its current legal authorized use of 14 residential guest rooms and 1 dwelling unit, in violation of Planning Code. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

(7) APPEAL NO. 03-196

FRANCIS DAVID RYAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1018 Clayton Street. Protesting the issuance on Sept. 22, 2003, to Gunther Dertz, Permit to Alter a Building (on single-family house: construct 7' X 36" high one-hour fire rated parapet on roof at south side). APPLICATION NO. 2003/09/22/5414. JURISDICTION GRANTED 11/12/03. **Note:** On March 24, 2004, the Board voted 3-2 to uphold the subject permit. On April 28, 2004, the Board voted 4-1 to grant the appellant's rehearing request, and to set the rehearing for June 9, 2004. FOR REHEARING TODAY.

(8) APPEAL NO. V04-016

MARTIN BARTOLAC & MICHAEL WIELAND, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	53 States Street. Protesting the granting on February 17, 2004, to Jack Byars, Rear Yard Variance (construction of a new 3-story plus penthouse addition to the rear of the existing one-story over basement single-family dwelling). VARIANCE CASE NO. 2003.0848V. FOR HEARING TODAY.

(9) **APPEAL NO. V04-022**

SARA SHAPIRO, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	62 Eastwood Drive. Appealing the denial on March 18, 2004, of a Rear Yard Variance (proposal is to legalize a one-story rear addition to a one-story, single-family dwelling). VARIANCE CASE NO. 2003.1023V. FOR HEARING TODAY.

(10) **APPEAL NO. 04-024**

JOHN ATWATER & DIANA NELSON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	3746 Jackson Street. Appealing a determination dated March 16, 2004, addressed to David Cincotta, that the proposed expansion, which is not within the front portion of the property where a height increase is permitted, and which, in any case, extends above the 35 foot absolute height limit, would not be allowed under Planning Code §§ 261(b)(1), 261(c), 261(c)(1), and 261(c)(2). FOR HEARING TODAY.

(11) **APPEAL NO. 04-034**

AT&T WIRELESS, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	350 – 8th Street. Appealing a determination dated April 6, 2004, addressed to Liz Johnson at AT&T Wireless, that the proposed antennas are not considered either necessary to the operation or enjoyment of a lawful principal use or appropriate, incidental and subordinate to any such use, and that therefore the proposed installation of a maximum of four (two pairs) of antennas at the proposed locations would require Conditional Use (CU) authorization per Planning Code § 816.73. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: **June 17th, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
ARNOLD Y.K. CHIN	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**
DOUGLAS SHOEMAKER	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

ecord and will be brought to the attention of the Board at the public hearing. For complete distribution to ll Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

ursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or evelopment permit, you may be limited to raising only those issues you or someone else raised at the ublic hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, r prior to, the public hearing.

alendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken ut of order to accommodate special needs. The Board urges all parties to be present in the hearing oom from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when t is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are rohibited at this meeting. Please be advised that the Chair may order the removal from the meeting oom of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-roducing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JUNE 23, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Douglas Shoemaker, and Commissioner Sabrina Saunders.

ABSENT: Commissioner Arnold Chin

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Jonas Ionin, Planing Department (PD); Leo McFadden, Senior Building Inspector, Dept. of Building Inspection (SBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: No public comment.

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: No public comment.

(3) **SPECIAL ITEM(S):**

Correction of findings issued for Appeal No(s). 02-122, subject property at 702 Earl Street, by withdrawing notice of decision and findings issued on June 5, 2003, and ordering a new notice of decision and findings that accurately reflects the Board's action at its May 14, 2003 hearing. **Explanatory Document:** Memorandum dated June 2, 2004 to President Harrington and Board Members from Deputy City Attorney Catharine Barnes.

ACTION: Taken off calendar by Board.

SPEAKERS: No public comment.

(4) ADDENDUM ITEM(S):

(4A) REHEARING REQUEST:

641 – 27th Avenue
Appeal No(s). 03-197
All City Construction Co. vs. DBI

Letter from Joel Yodowitz, attorney for All City Construction Co., appellant(s), requesting rehearing of Appeal No(s). 03-197, decided May 12, 2004. At that time, upon motion by Commissioner Chin, the Board voted 2-3 to overrule DBI's notice of decision with a finding that a demolition took place which exceeded the scope of the permit, but which did not constitute an unlawful demolition, with additional findings as stated into the record by Commissioner Chin. Four votes being required to overturn a departmental action, the motion failed, and the decision by DBI was upheld. **Departmental Action:** Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1.

ACTION: Upon motion by Vice President Sugaya, the Board voted 3-0-2 (Commissioners Chin and Saudners absent) to reschedule the request to July 21, 2004 at the written request of the parties.

SPEAKERS: None.

(5) APPEAL NO. 02-001

MAX LIMITED, LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	292 Ivy Street, a.k.a. 393-399 Grove Street, & 45 Gough Street, a.k.a. the "wood building." Appealing a determination dated December 18, 2001 issued to Peer Logic/Critical Path & Max Limited LLC regarding uses of the subject building in the Hayes Gough District. **Note:** Pursuant to Superior Court Judgment, discussio and possible action to (1) set aside the Board' February 20, 2002 decision in Max Limited, LLC vs Zoning Administrator, Appeal No. 02-001 as ordered b the Court, and (2) accept withdrawal of Appeal No 02-001 or, alternatively, set the matter for rehearing i light of the Court's findings.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 4-0-1 (Commissioner Chin absent) to vacate the decision of Feb. 20, 2002 and to accept the appellant's withdrawal of the appeal.

SPEAKERS: None.

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 03-051**

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing the determination dated March 19, 2003, addressed to Andrew Zacks, that the subject property has a legal authorized use of 14 residential guest rooms and 1 dwelling unit, that residential guest rooms constitute "group housing" under § 209.2 of the Planning Code, that this group housing constitutes a permitted conditional use since it was established prior to the enactment of Conditional Use (CU) requirements for said use, and that this permitted conditional use shall be considered abandoned 3 years from the last legal date of residency of the last resident of said guest rooms. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

(6B) **APPEAL NO. 03-066**

KEN PAGE, VINCENT LEGER, & BUENA VISTA PARK LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	21 Buena Vista East Avenue. Appealing a determination dated April 24, 2003, addressed to Andrew Zacks, that the proposed physical modifications to various residential guest rooms at the subject property would result in less viable guest rooms and would constitute a partial conversion of the structure to single family-use from its current legal authorized use of 14 residential guest rooms and 1 dwelling unit, in violation of Planning Code. PUBLIC HEARING HELD SEPT. 24, 2003. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Harrington, the Board voted 1-3-1 (Vice President Sugaya, and Commissioners Shoemaker and Saunders dissented, Commissioner Chin absent) to continue the case to a later date. 3 votes being required to continue a case, the motion failed, and the hearing went forward. Afterwards, upon motion by Commissioner Shoemaker, the Board voted 3-1-1 (President Harrington dissented, Commissioner Chin absent) to uphold both ZA determinations.

SPEAKERS: Andrew Zacks, attorney for appellants, asked to continue the matter because of a pending appeal by the City of litigation regarding the Ellis Act, and he summarized his arguments that both determinations are wrong, and that his clients should be permitted to convert the building to one-family use without any conditional use authorization. Jonas Ionin, PD, explained the process that the appellants are trying to avoid, and he asked the Board to uphold the department. No public comment.

(7) **APPEAL NO. 03-196**

FRANCIS DAVID RYAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1018 Clayton Street. Protesting the issuance on Sept. 22, 2003, to Gunther Dertz, Permit to Alter a Building (on single-family house: construct 7' X 36" high one-hour fire rated parapet on roof at south side). APPLICATION NO. 2003/09/22/5414. JURISDICTION GRANTED 11/12/03. **Note:** On March 24, 2004, the Board voted 3-2 to uphold the subject permit. On April 28, 2004, the Board voted 4-1 to grant the appellant's rehearing request, and to set the rehearing for June 9, 2004. FOR REHEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to uphold the subject permit.

SPEAKERS: Francis David Ryan, appellant, asked the Board to revoke the permit because of the campaign of harassment by the permit holder, including the placement of video cameras, and the hiring of a lawyer. He also said no agreement had been reached, and that the wall is a spite fence. Gunther Dertz, permit holder, argued that the wall is necessary to protect his property from fire, and that it is not a spite fence, and that he retracted his offer since it was not accepted. No public comment.

Leo McFadden, SBI DBI, described the option available to an owner who wants to avoid a parapet wall, including sprinklers and a fire rated roof, as well as a skylight for those whose light is blocked by a wall.

(8) **APPEAL NO. V04-016**

MARTIN BARTOLAC & MICHAEL WIELAND, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	53 States Street. Protesting the granting on February 17, 2004, to Jack Byars, Rear Yard Variance (construction of a new 3-story plus penthouse addition to the rear of the existing one-story over basement single-family dwelling). VARIANCE CASE NO. 2003.0848V. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to uphold the subject variance with amended findings and revised plans.

SPEAKERS: Jonas Ionin, PD, described the existing condition of the property and why a variance from rear yard standards is needed for the project. Michael Wieland, co-appellant, said the proposed rear extension will block light to the rear of his property, and he asked that the conditions of approval by the ZA be enforced, saying that the five requirements for a variance have not been met. Jack Byars, architect for property owner, gave a history of the project and the communications with the neighbors, and he said that the owner wants to keep the large magnolia tree on the property. No public comment.

(9) **APPEAL NO. V04-022**

SARA SHAPIRO, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	62 Eastwood Drive. Appealing the denial on March 18, 2004, of a Rear Yard Variance (proposal is to legalize a one-story rear addition to a one-story, single-family dwelling). VARIANCE CASE NO. 2003.1023V. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 3-1-1 (Commissioner Shoemaker dissented, Commissioner Chin absent) to uphold the denial of the subject variance.

SPEAKERS: Jonas Ionin, PD, explained the history of the project and why the variance had not been approved. Sara Shapiro, appellant, asked the Board to help her out of the situation caused by the first contractor who failed to obtain permits and who fled before the job was completed; she also said the project is 75% complete and that her neighbors support her project. Public comment: Anita Theoharis asked the Board to uphold the denial because the proposal fails to meet the Code and the Westwood Park Neighborhood Association guidelines, which have been adopted by the Planning Commission. Anne Chen spoke in support of the department and said approval of the variance would set a bad precedent in the neighborhood, and would undermine the efforts of the association to maintain the character of the area. Erin Koch-Goodman, daughter of appellant, summarized her research into zoning law, and said the room cannot be seen from the street, and that her mother should be able to finish the project since there is no opposition from immediate neighbors.

(10) **APPEAL NO. 04-024**

JOHN ATWATER & DIANA NELSON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	3746 Jackson Street. Appealing a determination dated March 16, 2004, addressed to David Cincotta, that the proposed expansion, which is not within the front portion of the property where a height increase is permitted, and which, in any case, extends above the 35 foot absolute height limit, would not be allowed under Planning Code §§ 261(b)(1), 261(c), 261(c)(1), and 261(c)(2). FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to reschedule the appeal to August 11, 2004 at the written request of the parties.

SPEAKERS: None.

(11) **APPEAL NO. 04-034**

AT&T WIRELESS, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	350 – 8th Street. Appealing a determination dated April 6, 2004, addressed to Liz Johnson at AT&T Wireless, that the proposed antennas are not considered either necessary to the operation or enjoyment of a lawful principal use or appropriate, incidental and subordinate to any such use, and that therefore the proposed installation of a maximum of four (two pairs) of antennas at the proposed locations would require Conditional Use (CU) authorization per Planning Code § 816.73. FOR HEARING TODAY.

ACTION: Withdrawn by the appellant.

SPEAKERS: None.

There being no further business, President Harrington adjourned the meeting at 7:10 p.m.

Kathleen Harrington

Robert H Feld

Kathleen Harrington, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

Board of Appeals

June 30, 2004 (Cancelled Meeting)

NOTICE OF CANCELLED MEETING & NOTICE OF NO MEETING

The Board of Appeals has **CANCELLED** the meeting of June 30th, 2004 due to lack of quorum. All cases previously scheduled for June 30th, 2004 have been rescheduled to July 21st, 2004.

Furthermore, the Board of Appeals has not scheduled a meeting for July 7, 2004. The next regular meeting is scheduled for **Wednesday, July 14th, 2004, City Hall, Room 416, 5:00 p.m.,** One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any scheduling or appeal matter.

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FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

Date Posted: **June 24th, 2004**

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, JULY 14, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

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(3) **ADDENDUM ITEM(S):**

(3A) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 595 Bryant Street. Zoning Administrator Notice of Violation dated May 24, 2004. Last day to appeal was June 8, 2004. Jurisdiction request received June 9, 2004. Letter from Rupert Hansen, attorney for Edward Rathbun, requestor(s), asking that the Board take jurisdiction over a Zoning Administrator Notice of Violation which states that the general advertising sign located on the SW corner of the subject property is not in compliance with sign permit no(s). 960583, which requires that the face of the sign be parallel to the wall of the building to the east, and that the sign not be larger than 14' X 48' in area.

(3B) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:**

Subject property at 2716-2718 Pine Street. Variance granted on March 18, 2004. Last day to appeal was March 29, 2004. Jurisdiction request received June 14, 2004. Letter from Barbara Slaaten, requestor(s), asking that the Board take jurisdiction over variance decision no(s). 2003.1008V. Project: replace existing enclosed porches and stairs on the 1st and 2nd levels with a new master bedroom suite, deck and stairs, on each level.

(3) ADDENDUM ITEM(S) CONTINUED:

(3C) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Revocation of taxi medallion no(s). 871. Revocation by the Taxi Commission dated August 21, 2003. Last day to appeal was September 5, 2003. Jurisdiction request received June 21, 2004. Letter from Raymond Deocareza, requestor(s), asking that the Board take jurisdiction over the Taxi Commission's action.

(4) APPEAL NO. 04-005

JIMMY CHU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	425 Junipero Serra Boulevard. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Jan. 5, 2004, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that Building Permit Application No(s). 2003/02/13/7355, 2003/05/14/4558 and 2003/06/20/7261 are hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 5/12/04. FOR FURTHER CONSIDERATION TODAY.

(5) APPEAL NO. 03-087

BILL & LUBA GOWER, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2250 Jackson Street. Appealing a determination dated May 20, 2003, addressed to Gary Bell, that the legal use of the subject property is a 5-unit apartment building based on available prior building permits and land use records. FOR HEARING TODAY.

ITEMS (6A), (6B), (6C), (6D) & (6E) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 04-038**

GORDON THRUPP, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	309 Cortland Avenue. Protesting a Police Permit Zoning Referral dated April 28, 2004, addressed to Patrick Corkery dba "Charlie's Club", that a place of entertainment permit can be approved at the subject property in the NC-2 zoning district per Planning Code §§ 711.48, 102.17 and 790.38. FOR HEARING TODAY.

(6B) **APPEAL NO. 04-039**

GORDON THRUPP, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	309 Cortland Avenue. Protesting the issuance on May 7, 2004, to Patrick Corkery, Permit to Alter a Building (add "other entertainment", ie, live DJ; no occupancy load increase allowed; no construction under this permit). APPLICATION NO. 2003/09/30/6176. FOR HEARING TODAY.

(6C) **APPEAL NO. 04-041**

GORDON THRUPP, Appellant(s) vs. ENTERTAINMENT COMMISSION, Respondent	309 Cortland Avenue. Protesting the issuance on May 6, 2004, to Patrick Corkery dba "Charlie's Club", Place of Entertainment Permit. PERMIT NO. EC POE 118. FOR HEARING TODAY.

(6D) **APPEAL NO. 04-046**

PATRICK CORKERY dba "CHARLIE'S CLUB", Appellant(s) vs. ENTERTAINMENT COMMISSION, Respondent	309 Cortland Avenue. Appealing the conditions imposed on a Place of Entertainment Permit issued on May 6, 2004. PERMIT NO. EC POE 118. FOR HEARING TODAY.

(6E) **APPEAL NO. 04-051**

DONNA ROBERTS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	309 Cortland Avenue. Protesting the issuance on May 19, 2004, to Patrick Corkery, Permit to Alter a Building (existing soundproofed rear building space; propose to expand existing establishment, including other entertainment uses, into this area; § 312 notice required pursuant to NSR recorded on Feb. 10, 2003.). APPLICATION NO. 2004/02/24/7100. FOR HEARING TODAY.

(7) **APPEAL NO. 04-040**

MACKENZIE GREEN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	835 Bryant Street. Protesting the issuance on April 28, 2004, to Pacific Bonding Corporation, Permit to Alter a Building (build 10' X 26' modular addition off-site and attach to existing 300sf building; add new 200amp single phase main meter panel; install rain gutter between existing building and new modular addition). APPLICATION NO. 2004/04/28/2517. FOR HEARING TODAY.

(8) **APPEAL NO. 04-042**

JOHN DEMERGASSO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	3196 Pacific Avenue. Protesting the issuance on April 28, 2004, to John & Mary Conlin, Permit to Alter a Building (on single-family house: remodel lower floor, relocate laundry, add 1½ baths, remodel kitchen with addition on 1st floor, add sitting room and bath on 2nd floor). APPLICATION NO. 2002/07/08/0823S. FOR HEARING TODAY.

(9) **APPEAL NO. 04-043**

JEFFERY ROOS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	230 – 4th Avenue. Protesting the issuance on May 5, 2004, to Wah Lee, Permit to Alter a Building (revise Building Permit Application No(s). 2004/03/01/7467 to remove 1 shed leaving a total of 1 shed; original permit issued in error). APPLICATION NO. 2004/05/05/3144. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: **July 8, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	PRESIDENT
HISASHI B. SUGAYA	VICE PRESIDENT
ARNOLD Y.K. CHIN	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER
DOUGLAS SHOEMAKER	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

ecord and will be brought to the attention of the Board at the public hearing. For complete distribution to ll Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JULY 14, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, and Commissioner Sabrina Saunders.

ABSENT: Commissioner Douglas Shoemaker.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Craig NIkitas, Planing Department (PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (SBI DBI); Jimi Harris for the Taxi Commission (TC); Robert Davis, Executive Director for the Entertainment Commission (ED EC); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

SPEAKERS: None.

(3) ADDENDUM ITEM(S):

(3A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 595 Bryant Street. Zoning Administrator Notice of Violation dated May 24, 2004. Last day to appeal was June 8, 2004. Jurisdiction request received June 9, 2004. Letter from Rupert Hansen, attorney for Edward Rathbun, requestor(s), asking that the Board take jurisdiction over a Zoning Administrator Notice of Violation which states that the general advertising sign located on the SW corner of the subject property is not in compliance with sign permit no(s). 960583, which requires that the face of the sign be parallel to the wall of the building to the east, and that the sign not be larger than 14' X 48' in area.

ACTION: Withdrawn by the requestor prior to the meeting.

SPEAKERS: None.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 2716-2718 Pine Street. Variance granted on March 18, 2004. Last day to appeal was March 29, 2004. Jurisdiction request received June 14, 2004. Letter from Barbara Slaaten, requestor(s), asking that the Board take jurisdiction over variance decision no(s). 2003.1008V. Project: replace existing enclosed porches and stairs on the 1st and 2nd levels with a new master bedroom suite, deck and stairs, on each level.

ACTION: Upon motion by President Harrington, the Board voted 1-3-1 (Commissioner Chin, Vice President Sugaya & Commissioner Saunders dissented, Commissioner Shoemaker absent) to grant the jurisdiction request. Four votes being required to grant such a request, the motion failed, and jurisdiction was denied.

SPEAKERS: Barbara Slaaten, requestor, asked the Board for permission to file a late appeal of a variance granted to her neighbor because a planner had sent her to the wrong room to file an appeal. Craig Nikitas, PD, described the method of notice given in variance matters and said proper notice had been given in this case. Susan Mukeada, agent for variance holder, objected to the request, saying everything had been properly done. No public comment.

(3C) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Revocation of taxi medallion no(s). 871. Revocation by the Taxi Commission dated August 21, 2003. Last day to appeal was September 5, 2003. Jurisdiction request received June 21, 2004. Letter from Raymond Deocareza, requestor(s), asking that the Board take jurisdiction over the Taxi Commission's action.

ACTION: Upon motion by Vice President Sugaya, the Board voted 3-1-1 (Commissioner Chin dissented, Commissioner Shoemaker absent) to deny the jurisdiction request.

SPEAKERS: Raymond Deocareza, requestor, asked the Board for permission to file a late appeal of the revocation of his medallion, and he explained why he could not file on time. Jimi Harris, TC, explained that the requestor had not kept the Taxi Commission up to date with his address, and that good faith efforts had been made to keep the requestor notified. Sgt. Vince Simpson, PD TD, described the efforts to inform the requestor and said he retains his A-card and can continue to drive without the medallion, which has been reissued to a new applicant from the list. No public comment.

(4) **APPEAL NO. 04-005**

JIMMY CHU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	425 Junipero Serra Boulevard. Appealing a Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Jan. 5, 2004, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that Building Permit Application No(s). 2003/02/13/7355, 2003/05/14/4558 and 2003/06/20/7261 are hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1. PUBLIC HEARING CLOSED ON 5/12/04. FOR FURTHER CONSIDERATION TODAY.

ACTION: Appeal withdrawn by the appellant.

SPEAKERS: None.

(5) **APPEAL NO. 03-087**

BILL & LUBA GOWER, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2250 Jackson Street. Appealing a determination dated May 20, 2003, addressed to Gary Bell, that the legal use of the subject property is a 5-unit apartment building based on available prior building permits and land use records. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 3-0-2 (Commissioners Shoemaker and Saunders absent) to reschedule the appeal to Sept. 22, 2004 at the prior written request of the parties.

SPEAKERS: None.

ITEMS (6A), (6B), (6C), (6D) & (6E) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 04-038**

GORDON THRUPP, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	309 Cortland Avenue. Protesting a Police Permit Zoning Referral dated April 28, 2004, addressed to Patrick Corkery dba "Charlie's Club", that a place of entertainment permit can be approved at the subject property in the NC-2 zoning district per Planning Code §§ 711.48, 102.17 and 790.38. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 1-3-1 (Commissioner Chin, President Harrington, and Vice President Sugaya dissented, Commissioner Shoemaker absent) to reschedule all five appeals to August 25, 2004. Three votes being required to reschedule any matter, the motion failed, and all five hearings went forward. Afterward, upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to uphold the subject ZA Police Permit Zoning Referral.

(6B) **APPEAL NO. 04-039**

GORDON THRUPP, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	309 Cortland Avenue. Protesting the issuance on May 7, 2004, to Patrick Corkery, Permit to Alter a Building (add "other entertainment", ie, live DJ; no occupancy load increase allowed; no construction under this permit). APPLICATION NO. 2003/09/30/6176. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to uphold the subject permit.

(6C) **APPEAL NO. 04-041**

GORDON THRUPP, Appellant(s) vs. ENTERTAINMENT COMMISSION, Respondent	309 Cortland Avenue. Protesting the issuance on May 6, 2004, to Patrick Corkery dba "Charlie's Club", Place of Entertainment Permit. PERMIT NO. EC POE 118. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to uphold the subject permit with various conditions as read into the record by Commissioner Chin, and with findings to be adopted at a later date.

(6D) **APPEAL NO. 04-046**

PATRICK CORKERY dba "CHARLIE'S CLUB", Appellant(s) vs. ENTERTAINMENT COMMISSION, Respondent	309 Cortland Avenue. Appealing the conditions imposed on a Place of Entertainment Permit issued on May 6, 2004. PERMIT NO. EC POE 118. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to uphold the subject permit with various conditions as read into the record by Commissioner Chin, and with findings to be adopted at a later date.

(6E) **APPEAL NO. 04-051**

DONNA ROBERTS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	309 Cortland Avenue. Protesting the issuance on May 19, 2004, to Patrick Corkery, Permit to Alter a Building (existing soundproofed rear building space; propose to expand existing establishment, including other entertainment uses, into this area; § 312 notice required pursuant to NSR recorded on Feb. 10, 2003.). APPLICATION NO. 2004/02/24/7100. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to uphold the subject permit.

SPEAKERS: Gordon Thrupp, appellant, said the ZA had abused his discretion in approving the zoning referral from the Entertainment Commission, and that the project is in violation of many ordinances and procedural rules and guidelines, and that the bar has expanded without an entertainment permit. Donna Roberts, appellant, said that no one wants to close the club but no one contemplated it would become a nightclub with a room extended into the rear yard close to surrounding residents who want to live in peace; she also said that Planning has been undermined by misrepresentations and powerful lawyers, and that none of the permits cover the 380sf addition. Mark Rennie, attorney for project sponsor, explained the expansion being permitted and said the club will have no dancing and no loud rock and roll band, and will remain a small lounge-type bar; he added that his client wanted the hours of operation increased. Andrew Junius, attorney for building owner, urged the Board to allow the project to go forward. Craig Nikitas, PD, explained the Planning Commission's limitations on hours for music intended to protect the residents of the neighborhood. Robert Davis, EC, explained that the ordinance says the permit shall be issued if there is no basis for denial as in this case, and he read the Police Code provisions to the Board.

Public comment for appellants: Daniel McGinley described improper testimony at the Planning Commission. Ellen Shireman said the proposed use is not compatible with Cortland Avenue and that Bernal Hill is very different from Potrero Hill. Jennifer Young said that many noise complaints are expected to be generated by the club. Robin McGinley said she opposes the horizontal expansion of the building, which will result in 125 people in the bar, many more tha the 49-person limit of the Fire Code, with no enforcement expected.

Public comment for permit holder: Sandy Martinez said the club will improve the neighborhood. Michelle Gascoigne said she wants entertainment in a safe place. Karen Le said the bar has a nice relaxing atmosphere. Deanna Hoffinger said she is a tenant living above, and that it is a wonderful lounge. Suzanne MacDonald said she is from Russian Hill, and said she visits the club because it is a nice friendly place to meet. Alex Homs said that music in the back room needed. Peter Euteneuer said it is an extremely comfortable place and an addition to the neighborhood. John Stricklin, building owner, spoke in support of the project. Michael Nolan, said the church nearby has music and dancing since 1925 and no permits for these functions. John Wood of the Late Night Coalition said the complaints are exaggerated and there have been no suggestions for mitigation by the complainants; he added that he supports the request to extend the entertainment hours to midnight.

Catharine Barnes, DCA OCA, responded to the Board's legal questions regarding proposed conditions of approval and findings that are to be approved at a future meeting.

(7) APPEAL NO. 04-040

MACKENZIE GREEN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	835 Bryant Street. Protesting the issuance on April 28, 2004, to Pacific Bonding Corporation, Permit to Alter a Building (build 10' X 26' modular addition off-site and attach to existing 300sf building; add new 200amp single phase main meter panel; install rain gutter between existing building and new modular addition). APPLICATION NO. 2004/04/28/2517. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Shoemaker absent) to reschedule the appeal to July 28, 2004.

SPEAKERS: Michael Fiumara, attorney for appellant, requested a rescheduling of the appeal. Peter Botz, attorney for permit holder, objected to the rescheduling request.

8) APPEAL NO. 04-042

JOHN DEMERGASSO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	3196 Pacific Avenue. Protesting the issuance on April 28, 2004, to John & Mary Conlin, Permit to Alter a Building (on single-family house: remodel lower floor, relocate laundry, add 1½ baths, remodel kitchen with addition on 1st floor, add sitting room and bath on 2nd floor). APPLICATION NO. 2002/07/08/0823S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to uphold the subject permit on condition that the east corner, 2nd floor window be operable but made of frosted glass.

SPEAKERS: Bonnie Demergasso, appellant, read a letter addressed to a city planner explaining why her opposition to the project, which will impact her light and air; she asked the Board to eliminate the 2nd story from the project since it is not consistent with the Residential Design Guidelines. David Cincotta, attorney for permit holders, said his clients had received approval from the Planning Commission at the DR hearing, and that they are still willing to discuss the matter with the appellant. Craig Nikitas, PD, presented the approved set of plans and described the project. No public comment.

(9) APPEAL NO. 04-043

JEFFERY ROOS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	230 – 4th Avenue. Protesting the issuance on May 5, 2004, to Wah Lee, Permit to Alter a Building (revise Building Permit Application No(s). 2004/03/01/7467 to remove 1 shed leaving a total of 1 shed; original permit issued in error). APPLICATION NO. 2004/05/05/3144. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Shoemaker absent) to uphold the subject permit due to the non-appearance of the appellant.

SPEAKERS: None.

There being no further business, President Harrington adjourned the meeting at 8:05 p.m.

Kathleen Harrington

Kathleen Harrington, President

Robert H Feld

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, JULY 21, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

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(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST:

Appeal No(s). 03-194, Tehlirian vs. DBI, PCD. Subject property at 572 San Jose Avenue. Letter Ara Tehlirian, co-appellant, requesting rehearing of Appeal No(s). 03-194, decided March 3, 2004. At that time, upon motion by President Harrington, the Board voted 3-2 (Commissioners Shoemaker & Sugaya dissented) to overrule the denial and grant the permit with conditions as presented by the appellant. Four votes being required to overrule a departmental action, the denial of the subject permit was upheld. Project: on two-unit building, horizontal and vertical addition, 335sf on ground floor, 368sf on 2nd floor, and 1038sf on 3rd floor; electrical, plumbing, and mechanical under separate permit. DR Requestor(s): Jose Morales. **Note:** The public hearing on this rehearing request was held and closed on March 31, 2004.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 15 Balceta Avenue. Electrical permit issued on March 19, 2004. Last day to appeal was April 5, 2004. Jurisdiction request received on June 16, 2004. Letter from Dominique Fracchia, requestor(s), asking that the Board take jurisdiction over Electrical Permit No(s). E20040319608 for the purpose of filing a penalty appeal.

(3C) REHEARING REQUEST:

Appeal No(s). 04-030, Lau vs. DBI, PDD. Subject property at 714 – 22nd Street. Letter from Elena Koustas, agent for appellant Marvin Lau, requesting rehearing of Appeal No(s). 04-030, decided June 9, 2004. At that time, upon motion by President Harrington, the Board voted 3-1-1 (Commissioner Sugaya dissented, Commissioner Saunders absent) to overrule the denial by the Planning Department and to grant the subject permit. Four votes being required to overturn a departmental action under the City Charter § 4.106(d), the denial of the subject permit was upheld.

(3D) REHEARING REQUEST:

Appeal No(s). 03-197, All City Construction Co. vs. DBI. Subject property at 641 – 27th Avenue. Letter from Joel Yodowitz, attorney for All City Construction Co., appellant(s), requesting rehearing of Appeal No(s). 03-197, decided May 12, 2004. At that time, upon motion by Commissioner Chin, the Board voted 2-3 to overrule DBI's notice of decision with a finding that a demolition took place which exceeded the scope of the permit, but which did not constitute an unlawful demolition, with additional findings as stated into the record by Commissioner Chin. Four votes being required to overturn a departmental action, the motion failed, and the decision by DBI was upheld. **Departmental Action:** Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1.

(3E) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

143-145 Pfeiffer Street. Permit issued on March 18, 2004. Last day to appeal was April 2, 2004. Jurisdiction request received May 5, 2004. Letter from Felix & Carol Arts, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/03/18/9082. Project: on 2-unit building, interior tenant improvements to include remodel of kitchen/bath; electrical/plumbing under separate permit. Permit Holder(s): Shaun Weston.

(4) CONSENT ITEMS (DBI PENALTY):

With the consent of the Dept. of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) APPEAL NO. 04-048

LYDIA YAFFE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	337 Parnassus Avenue. Appeal for refund of penalty imposed on May 28, 2004, for work done without a permit (on single family house: dormer windows per plan; comply with NOV dated March 30, 2004). APPLICATION NO. 2004/05/13/3749. FOR HEARING TODAY.

(5) APPEAL NO. V03-209

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. **Note:** On March 24, 2004, the Board voted 5-0 to uphold the variance with the following condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature. On May 12, 2004, the Board voted 4-1 to grant the rehearing request by the appellants and to set the rehearing for June 30, 2004. FOR REHEARING TODAY.

(6) **APPEAL NO. 04-036**

LYNNE WINSLOW, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	746 Hayes Street. Appealing a determination dated April 16, 2004, addressed to Brett Gladstone, that the charitable fundraising business at the subject property is prohibited under Planning Code § 204.1 (a) through (h) for the following reason(s): charitable fundraising is not an occupation that has been traditionally practiced out of one's residence; the current business occupies more than ¼ of the total floor area of the dwelling unit; and because the current business employs persons not living in the unit. FOR HEARING TODAY.

(7) **APPEAL NO. 04-045**

THOMAS WILLIAMS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2749 Pierce Street. Protesting the issuance on May 5, 2004, to Wendell Laidley, Permit to Alter a Building (on single-family house: construction of a new roof deck with exterior spiral stair). APPLICATION NO. 2004/02/13/6344. FOR HEARING TODAY.

(8) **APPEAL NO. 04-047**

SFLW PARTNERSHIP, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	205 – 13th Street / 1717 Mission Street. Appealing a determination dated May 5, 2004, addressed to Patrice Fambrini at Jaidin Consulting, that the general advertising sign at the SE corner of the subject property is a legal non-conforming use, that the request to move the sign to another location on the subject property in response to the freeway replacement project does not constitute relocation of the sign "to another site" under Planning Code § 611 and thus does not require Conditional Use (CU) approval, and finally, that the relocation of the sign must comply with Planning Code § 604, and as such, it cannot result in a decrease in compliance with any provision of the Planning Code, including the provision prohibiting visibility by travelers on a freeway. FOR HEARING TODAY.

(9) **APPEAL NO. 04-049**

JUAN YANES dba "CHARLES TOWING & MECHANICS", Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1251 Thomas Avenue. Appealing a Police Permit Zoning Referral (P51 Tow Car Firm) dated May 13, 2004, addressed to Juan Yanes, that the proposed use, tow car operator, requires Conditional Use Authorization (CU) in the Restricted Light Industrial (RLI) zoning district per Planning Code § 249.15(b)(2), and that such a use must be conducted within an area completely enclosed by a wall or concealing fence not less than 6 feet high. FOR HEARING TODAY.

(10) **APPEAL NO. 04-050**

MARK MIRAVALLE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	1021 Francisco Street. Appealing the denial on May 28, 2004, of a Permit to Alter a Building (convert 2 residential units to single family unit; dwelling merger). APPLICATION NO. 2003/05/30/5840. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: **July 15th, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
ARNOLD Y.K. CHIN	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**
DOUGLAS SHOEMAKER	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

ecord and will be brought to the attention of the Board at the public hearing. For complete distribution to ll Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

ursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or levelopment permit, you may be limited to raising only those issues you or someone else raised at the ublic hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, r prior to, the public hearing.

alendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken ut of order to accommodate special needs. The Board urges all parties to be present in the hearing oom from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

he ringing of and use of cell phones, pagers and similar sound-producing electronic devices are rohibited at this meeting. Please be advised that the Chair may order the removal from the meeting oom of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-roducing electronic devices.

ACCESSIBILITY INFORMATION

merican sign language interpreters and/or sound enhancement system will be available upon request by ontacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe llergies, environmental illness, multiple chemical sensitivity or related disabilities should call the ccessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to ccommodate such people, attendees at public meetings are reminded that other attendees may be ensitive to various chemical-based products. Please help the City to accommodate these individuals. he closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde nd Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. ccessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega nd the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding UNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

overnment's duty is to serve the public, reaching its decisions in full view of the public. Commissions, oards, councils and other agencies of the City and County exist to conduct the people's business. This rdinance assures that deliberations are conducted before the people and that City operations are open to he people's review.

or more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco dministrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task orce: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett lace, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail onna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the unshine Task Force, the San Francisco Public Library, and on the City's website at ww.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JULY 21, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, Commissioner Sabrina Saunders, and Commissioner Douglas Shoemaker.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Julian Banales, Planning Department (PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (SBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

SPEAKERS: None.

DOCUMENTS DEPT.

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(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST:

Appeal No(s). 03-194, Tehlirian vs. DBI, PCD. Subject property at 572 San Jose Avenue. Letter Ara Tehlirian, co-appellant, requesting rehearing of Appeal No(s). 03-194, decided March 3, 2004. At that time, upon motion by President Harrington, the Board voted 3-2 (Commissioners Shoemaker & Sugaya dissented) to overrule the denial and grant the permit with conditions as presented by the appellant. Four votes being required to overrule a departmental action, the denial of the subject permit was upheld. Project: on two-unit building, horizontal and vertical addition, 335sf on ground floor, 368sf on 2nd floor, and 1038sf on 3rd floor; electrical, plumbing, and mechanical under separate permit. DR Requestor(s): Jose Morales. **Note:** The public hearing on this rehearing request was held and closed on March 31, 2004.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-1 (Commissioner Saunders dissented) to grant the rehearing request and to set the rehearing for Sept. 29, 2004.

SPEAKERS: Ilene Dick, attorney for appellant(s), reported on the offer made by her client to the DR requestor, and asked the Board to grant a rehearing. Raquel Fox, attorney for DR requestor, urged the Board not to grant a rehearing since there is no new evidence being offered. No public comment.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 15 Balceta Avenue. Electrical permit issued on March 19, 2004. Last day to appeal was April 5, 2004. Jurisdiction request received on June 16, 2004. Letter from Dominique Fracchia, requestor(s), asking that the Board take jurisdiction over Electrical Permit No(s). E20040319608 for the purpose of filing a penalty appeal.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to grant the jurisdiction request.

SPEAKERS: Laurence Kornfield, CBI DBI, said the DBI had no objections to a late filing of an appeal. No public comment.

(3C) REHEARING REQUEST:

Appeal No(s). 04-030, Lau vs. DBI, PDD. Subject property at 714 – 22nd Street. Letter from Elena Koustas, agent for appellant Marvin Lau, requesting rehearing of Appeal No(s). 04-030, decided June 9, 2004. At that time, upon motion by President Harrington, the Board voted 3-1-1 (Commissioner Sugaya dissented, Commissioner Saunders absent) to overrule the denial by the Planning Department and to grant the subject permit. Four votes being required to overturn a departmental action under the City Charter § 4.106(d), the denial of the subject permit was upheld.

ACTION: Upon motion by President Harrington, the Board voted 4-1 (Vice President Sugaya dissented) to grant the rehearing request and to set the rehearing for August 25, 2004.

SPEAKERS: Alex Koustas, agent for appellant, asked the Board to grant a rehearing so that the appeal could be heard by a 5-member panel. Julian Banales, PD, did not object to the request.

(3D) REHEARING REQUEST:

Appeal No(s). 03-197, All City Construction Co. vs. DBI. Subject property at 641 – 27th Avenue. Letter from Joel Yodowitz, attorney for All City Construction Co., appellant(s), requesting rehearing of Appeal No(s). 03-197, decided May 12, 2004. At that time, upon motion by Commissioner Chin, the Board voted 2-3 to overrule DBI's notice of decision with a finding that a demolition took place which exceeded the scope of the permit, but which did not constitute an unlawful demolition, with additional findings as stated into the record by Commissioner Chin. Four votes being required to overturn a departmental action, the motion failed, and the decision by DBI was upheld. **Departmental Action:** Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the matter to August 25, 2004.

SPEAKERS: Joel Yodowitz, attorney for appellant/requestor, asked for a rescheduling of the rehearing request.

(3E) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

143-145 Pfeiffer Street. Permit issued on March 18, 2004. Last day to appeal was April 2, 2004. Jurisdiction request received May 5, 2004. Letter from Felix & Carol Arts, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/03/18/9082. Project: on 2-unit building, interior tenant improvements to include remodel of kitchen/bath; electrical/plumbing under separate permit. Permit Holder(s): Shaun Weston.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to grant the jurisdiction request, and for the DBI to perform a life/safety inspection, and to set the appeal hearing for August 18, 2004.

SPEAKERS: Felix Arts, requestor(s), asked the Board to allow him to file a late appeal. Felicia Weston, permit holder, said she intends to renovate the building, which is in desperate need of repair. No public comment.

(4) CONSENT ITEMS (DBI PENALTY):

With the consent of the Dept. of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) APPEAL NO. 04-048

LYDIA YAFFE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	337 Parnassus Avenue. Appeal for refund of penalty imposed on May 28, 2004, for work done without a permit (on single family house: dormer windows per plan; comply with NOV dated March 30, 2004). APPLICATION NO. 2004/05/13/3749. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to reduce the subject penalty to two times the regular fee.

SPEAKERS: Laurence Kornfield, CBI DBI, said he could not consent to a reduction since the case does not meet DBI guidelines necessary to justify consent. Scott Yaffe, husband of appellant, explained that a contractor was paid who was supposed to obtain permits, and instead did half the work without permits and then ran off with the money. No public comment.

(5) APPEAL NO. V03-209

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. **Note:** On March 24, 2004, the Board voted 5-0 to uphold the variance with the following condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature. On May 12, 2004, the Board voted 4-1 to grant the rehearing request by the appellants and to set the rehearing for June 30, 2004. FOR REHEARING TODAY.

ACTION: Upon motion by Vice President Harrington, the Board voted 3-1-1 (Commissioner Chin dissented, Commissioner Saunders absent) to reschedule the appeal to July 28, 2004.

SPEAKERS: Chris Moscone, attorney for appellant(s), asked for a rescheduling of the appeal so that all 5 members could be present since this is a rehearing and only one rehearing is allowed per case. Jay Capela, co-variance holder, objected to the rescheduling request, and asked that the matter be heard now. No public comment.

(6) **APPEAL NO. 04-036**

LYNNE WINSLOW, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	746 Hayes Street. Appealing a determination dated April 16, 2004, addressed to Brett Gladstone, that the charitable fundraising business at the subject property is prohibited under Planning Code § 204.1 (a) through (h) for the following reason(s): charitable fundraising is not an occupation that has been traditionally practiced out of one's residence; the current business occupies more than ¼ of the total floor area of the dwelling unit; and because the current business employs persons not living in the unit. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-1 (Commissioner Knox dissented) to overrule the determination, adopt the conditions as presented by the appellant's attorney, and adopt the following further condition: a) that no more than 3 employees be present at the subject property at any given time.

SPEAKERS: Julian Banales for PD, explained the determination and said that there is no discretion under the Code to waive. The project doesn't meet the Code provisions as an accessory use in a residential district since she has five employees and too much floor area. Brett Gladstone, addressee of the determination and attorney for the appellant, described the appellant's business as how it is appropriate for the neighborhood. Public Comment: (For Appellant) – Richard Johnson asked the Board to allow the use because of its beneficial impacts on the crime-ridden Haight-Ashbury, and that her business has minimal impact on the area. David Miranda said he supports the appellant because of the significant assistance to the AIDS projects. Matt Magana said he is a tenant and that the appellant is his third and best landlord and he rarely hears his business operation in the building.

(7) **APPEAL NO. 04-045**

THOMAS WILLIAMS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2749 Pierce Street. Protesting the issuance on May 5, 2004, to Wendell Laidley, Permit to Alter a Building (on single-family house: construction of a new roof deck with exterior spiral stair). APPLICATION NO. 2004/02/13/6344. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 5-0 to reschedule the matter to Sept. 8, 2004 at the written request of the parties.

SPEAKERS: None.

(8) **APPEAL NO. 04-047**

SFLW PARTNERSHIP, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	205 – 13th Street / 1717 Mission Street. Appealing a determination dated May 5, 2004, addressed to Patrice Fambrini at Jaidin Consulting, that the general advertising sign at the SE corner of the subject property is a legal non-conforming use, that the request to move the sign to another location on the subject property in response to the freeway replacement project does not constitute relocation of the sign "to another site" under Planning Code § 611 and thus does not require Conditional Use (CU) approval, and finally, that the relocation of the sign must comply with Planning Code § 604, and as such, it cannot result in a decrease in compliance with any provision of the Planning Code, including the provision prohibiting visibility by travelers on a freeway. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the determination with the following conditions: a temporary relocation of the subject sign upward is allowable as a business sign, and after the on-ramp construction period, the appellant can choose to relocate the sign where it is not visible from the freeway and choose to revert back to a general advertising sign without there having been an abandonment of this general advertising use during the on-ramp construction period.

SPEAKERS: Julian Banales for the Planning Department explained the nature of the appeal and how the proposal failed to meet the restriction of the Code if the sign is deemed a general advertising sign, which would be seen from the freeway under construction, an increase of discrepancy with Code provisions, while it would not be in violation if the sign deemed a business sign. Patrice Fambrini, for the Appellant and owner, asked for clarification since the sign has always been used as a business sign for business in the building and it must not be moved to accommodate Cal-Trains freeway construction project.

(9) **APPEAL NO. 04-049**

JUAN YANES dba “CHARLES TOWING & MECHANICS”, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1251 Thomas Avenue. Appealing a Police Permit Zoning Referral (P51 Tow Car Firm) dated May 13, 2004, addressed to Juan Yanes, that the proposed use, tow car operator, requires Conditional Use Authorization (CU) in the Restricted Light Industrial (RLI) zoning district per Planning Code § 249.15(b)(2), and that such a use must be conducted within an area completely enclosed by a wall or concealing fence not less than 6 feet high. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the appeal to Sept. 29, 2004 at the written request of the parties.

SPEAKERS: None.

(10) **APPEAL NO. 04-050**

MARK MIRAVALLE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	1021 Francisco Street. Appealing the denial on May 28, 2004, of a Permit to Alter a Building (convert 2 residential units to single family unit; dwelling merger). APPLICATION NO. 2003/05/30/5840. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the appeal to Aug. 25, 2004 at the written request of the parties.

SPEAKERS: None.

There being no further business, President Harrington adjourned the meeting at 7:51 p.m.

Robert H Feld

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, JULY 28, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) SPECIAL ITEM:

Presentation to Douglas Shoemaker, Commissioner of the Board of Appeals (October 2001 to June 2004).

(4) SPECIAL ITEM:

Public hearing, discussion and adoption of the Board of Appeals Incompatible Activities Statement as required by the San Francisco Campaign and Governmental Conduct Code § 3.218. Copies are available at the Board office. Please address comments to Executive Secretary Robert Feldman, Board of Appeals, 1660 Mission Street #3036, SF, CA 94103. Telephone (415) 575-6880, fax (415) 575-6885, or email at robert.feldman@sfgov.org.

(5) ADDENDUM ITEMS:

(5A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 2775 Filbert Street. Permit issued on May 28, 2004. Last day to appeal was June 14, 2004. Jurisdiction request received on July 16, 2004. Letter from Patricia Vaughey, asking that the Board take jurisdiction over Building Permit Application No(s). 2004/05/28/5113. Project: on single-family house, install redwood fence as per plan 10'-0" in height around property. Permit Holder(s): Tina Bartlett.

(5B) REHEARING REQUEST(S):

Appeal No(s). 03-051 & 03-066, Page et al. vs. ZA. Subject property at 21 Buena Vista East Avenue. Letter from Andrew Zacks, attorney for appellants Ken Page et al., requesting rehearing of Appeal No(s). 03-051 & 03-066, decided June 23, 2004. At that time, upon motion by Commissioner Shoemaker, the Board voted 3-1-1 (President Harrington dissented, Commissioner Chin absent) to uphold both determinations. **First ZA determination:** that the subject property has a legal authorized use of 14 residential guest rooms and 1 dwelling unit, that residential guest rooms constitute "group housing" under § 209.2 of the Planning Code, that this group housing constitutes a permitted conditional use since it was established prior to the enactment of Conditional Use (CU) requirements for this use, and that this permitted conditional use shall be considered abandoned 3 years from the last legal date of residency of the last resident of these guest rooms. **Second ZA determination**: that the proposed physical modifications to various residential guest rooms at the subject property would result in less viable guest rooms and would constitute a partial conversion of the structure to single family-use from its current legal authorized use of 14 residential guest rooms and 1 dwelling unit, in violation of Planning Code.

(6) APPEAL NO. V03-209

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. **Note:** On March 24, 2004, the Board voted 5-0 to uphold the variance with the following condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature. On May 12, 2004, the Board voted 4-1 to grant the rehearing request by the appellants and to set the rehearing for June 30, 2004. FOR REHEARING TODAY.

ITEMS (7A) & (7B) SHALL BE HEARD TOGETHER:

(7A) **APPEAL NO. 04-023**

ERIC DEEDS, RICHARD HSU, & JOMA JONES, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	116-118 Beulah Street. Appealing a Permit Suspension Request dated March 19, 2004, addressed to Dept. of Building Inspection Director Frank Chiu, asking that Building Permit Application No(s). 2003/12/10/2000 be suspended for the following reason(s): the permit was issued in error because it was not routed to the Planning Dept. for notification to affected tenants and owners which is required for horizontal expansions into light wells. FOR HEARING TODAY.

(7B) **APPEAL NO. 04-053**

KATHERINE ROBERTS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	116-118 Beulah Street. Protesting the issuance on May 27, 2004, to Eric Deeds et al., Permit to Alter a Building (on 2-unit residential building: application submittal to City Planning for review of horizontal expansion of garage into a light well; previously issued in-kind under Building Permit Application No(s). 2003/12/10/2000). APPLICATION NO. 2004/04/13/1159. FOR HEARING TODAY.

(8) **APPEAL NO. 04-040**

MACKENZIE GREEN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	835 Bryant Street. Protesting the issuance on April 28, 2004, to Pacific Bonding Corporation, Permit to Alter a Building (build 10' X 26' modular addition off-site and attach to existing 300sf building; add new 200amp single phase main meter panel; install rain gutter between existing building and new modular addition). APPLICATION NO. 2004/04/28/2517. FOR HEARING TODAY.

(9) **APPEAL NO. V04-052**

LAURA PERRAULT, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	32 Carson Street. Appealing the partial denial of a Rear Yard Variance (proposal to reconstruct an existing non-complying room at the rear of the property that would include an increase in volume and a new roof form was denied; the proposal to reconstruct the same existing non-complying room at the rear without the increase in volume and without a new roof form was granted; the proposal to construct a new larger deck with a spiral staircase was also granted). VARIANCE CASE NO. 2003.1242V. FOR HEARING TODAY.

(10) **APPEAL NO. 04-054**

NASEEF MUSLEH, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	1101 Oak Street. Appealing the denial on June 3, 2004, of Permit to Alter a Building (on multi-family/commercial building: separate clergy living quarters from pre-existing church space to establish as a separate dwelling unit). APPLICATION NO. 2004/02/11/6167. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: **July 22nd, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
ARNOLD Y.K. CHIN	**COMMISSIONER**
RANDALL KNOX	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

ecord and will be brought to the attention of the Board at the public hearing. For complete distribution to ll Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

ursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or evelopment permit, you may be limited to raising only those issues you or someone else raised at the ublic hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, r prior to, the public hearing.

alendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken ut of order to accommodate special needs. The Board urges all parties to be present in the hearing oom from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

he ringing of and use of cell phones, pagers and similar sound-producing electronic devices are rohibited at this meeting. Please be advised that the Chair may order the removal from the meeting oom of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-roducing electronic devices.

ACCESSIBILITY INFORMATION

merican sign language interpreters and/or sound enhancement system will be available upon request by ontacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe llergies, environmental illness, multiple chemical sensitivity or related disabilities should call the ccessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to ccommodate such people, attendees at public meetings are reminded that other attendees may be ensitive to various chemical-based products. Please help the City to accommodate these individuals. he closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde nd Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. ccessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega nd the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

overnment's duty is to serve the public, reaching its decisions in full view of the public. Commissions, oards, councils and other agencies of the City and County exist to conduct the people's business. This rdinance assures that deliberations are conducted before the people and that City operations are open to he people's review.

or more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco dministrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task orce: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett lace, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail onna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the unshine Task Force, the San Francisco Public Library, and on the City's website at ww.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JULY 28, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, Commissioner Sabrina Saunders, and Commissioner Randall Knox.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Craig Nikitas, Planning Department (PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (SBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

PUBLIC COMMENT: Patricia Vaughey thanked the Board for a recent decision. Laurence Kornfield, CBI DBI, reported to the Board on his visit to 143-145 Pfiefer St.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

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SPEAKERS: None.

(3) SPECIAL ITEM:

Presentation to Douglas Shoemaker, Commissioner of the Board of Appeals (October 2001 to June 2004).

(4) SPECIAL ITEM:

Public hearing, discussion and adoption of the Board of Appeals Incompatible Activities Statement as required by the San Francisco Campaign and Governmental Conduct Code § 3.218. Copies are available at the Board office. Please address comments to Executive Secretary Robert Feldman, Board of Appeals, 1660 Mission Street #3036, SF, CA 94103. Telephone (415) 575-6880, fax (415) 575-6885, or email at robert.feldman@sfgov.org.

ACTION: Rescheduled to September 1, 2004.

SPEAKERS: None.

(5) ADDENDUM ITEMS:

(5A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 2775 Filbert Street. Permit issued on May 28, 2004. Last day to appeal was June 14, 2004. Jurisdiction request received on July 16, 2004. Letter from Patricia Vaughey, asking that the Board take jurisdiction over Building Permit Application No(s). 2004/05/28/5113. Project: on single-family house, install redwood fence as per plan 10'-0" in height around property. Permit Holder(s): Tina Bartlett.

ACTION: Upon motion by Vice President Sugaya, the Board voted 5-0 to grant the jurisdiction request, and for the Planning Department to conduct a site visit prior to the hearing.

LIST OF PARTIES: Patricia Vaughey, requestor; Tina Bartlett, permit holder.

PUBLIC COMMENT: None.

(5B) REHEARING REQUEST(S):

Appeal No(s). 03-051 & 03-066, Page et al. vs. ZA. Subject property at 21 Buena Vista East Avenue. Letter from Andrew Zacks, attorney for appellants Ken Page et al., requesting rehearing of Appeal No(s). 03-051 & 03-066, decided June 23, 2004. At that time, upon motion by Commissioner Shoemaker, the Board voted 3-1-1 (President Harrington dissented, Commissioner Chin absent) to uphold both determinations. **First ZA determination:** that the subject property has a legal authorized use of 14 residential guest rooms and 1 dwelling unit, that residential guest rooms constitute "group housing" under § 209.2 of the Planning Code, that this group housing constitutes a permitted conditional use since it was established prior to the enactment of Conditional Use (CU) requirements for this use, and that this permitted conditional use shall be considered abandoned 3 years from the last legal date of residency of the last resident of these guest rooms. **Second ZA determination**: that the proposed physical modifications to various residential guest rooms at the subject property would result in less viable guest rooms and would constitute a partial conversion of the structure to single family-use from its current legal authorized use of 14 residential guest rooms and 1 dwelling unit, in violation of Planning Code.

ACTION: Upon motion by Commissioner Chin, the Board voted 2-3 to grant the RR, the motion failed and the request was denied.

LIST OF PARTIES: Andrew Zacks, attorney requestors/appellants, submitted on his papers; Craig Nikitas, PD.

PUBLIC COMMENT: None.

(6) **APPEAL NO. V03-209**

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. **Note:** On March 24, 2004, the Board voted 5-0 to uphold the variance with the following condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature. On May 12, 2004, the Board voted 4-1 to grant the rehearing request by the appellants and to set the rehearing for June 30, 2004. FOR REHEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-1 to continue the appeal to August 25, 2004.

LIST OF PARTIES: Christopher Moscone, attorney for appellant; Rodrigo Santos, engineer for appellant; Jay Capela, permit holder; Catherine Ferreira, Co-Appellant.

PUBLIC COMMENT: John Glugowski explained why he had withdrawn his appeal, his issue being different from the appellants.

ITEMS (7A) & (7B) SHALL BE HEARD TOGETHER:

(7A) **APPEAL NO. 04-023**

ERIC DEEDS, RICHARD HSU, & JOMA JONES, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	116-118 Beulah Street. Appealing a Permit Suspension Request dated March 19, 2004, addressed to Dept. of Building Inspection Director Frank Chiu, asking that Building Permit Application No(s). 2003/12/10/2000 be suspended for the following reason(s): the permit was issued in error because it was not routed to the Planning Dept. for notification to affected tenants and owners which is required for horizontal expansions into light wells. FOR HEARING TODAY.

PUBLIC COMMENT: None.

(7B) **APPEAL NO. 04-053**

KATHERINE ROBERTS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	116-118 Beulah Street. Protesting the issuance on May 27, 2004, to Eric Deeds et al., Permit to Alter a Building (on 2-unit residential building: application submittal to City Planning for review of horizontal expansion of garage into a light well; previously issued in-kind under Building Permit Application No(s). 2003/12/10/2000). APPLICATION NO. 2004/04/13/1159. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to uphold the subject permit.

LIST OF PARTIES: Craig Nikitas, SP DCP; Joma Jones, permit holder; Mark Trebek, attorney for appellant; Katherine Roberts, appellant; Howard Herships, agent for appellant; Laurence Kornfield, DBI.

PUBLIC COMMENT: (For Appellant) Howard Herships said the soil from the excavation was never properly held back and it is causing a cave-in and there was never proper notice to neighbors. (Appellant) Katherine Roberts described her problem with one of the workers on the job who she said had threatened her.

(8) **APPEAL NO. 04-040**

MACKENZIE GREEN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	835 Bryant Street. Protesting the issuance on April 28, 2004, to Pacific Bonding Corporation, Permit to Alter a Building (build 10' X 26' modular addition off-site and attach to existing 300sf building; add new 200amp single phase main meter panel; install rain gutter between existing building and new modular addition). APPLICATION NO. 2004/04/28/2517. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to uphold permit with conditions. Conditions of approval are that NSR be recorded, 30-gallon trash be provided for customers use, that janitorial service be provided within 100 feet of premises, that office entry and restroom be ADA accessible, that permit holder designate a contact person to Z.A. to deal with compliance issues.

LIST OF PARTIES: Michael Fiumara, attorney for appellant; Peter Botz, attorney for permit holder; Craig Nikitas, ZA; Laurence Kornfield, CBI DBI.

PUBLIC COMMENT: (For Appellant) Gerrie Scott described her effort to keep the neighborhood clean. Richard Shickman said he has an office on Boardmen Place and described the mess in the area. Scott Krieger described his efforts to keep the neighborhood clean. Geri Campana said that someone must be required to keep the rear area clean.

(9) **APPEAL NO. V04-052**

LAURA PERRAULT, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	32 Carson Street. Appealing the partial denial of a Rear Yard Variance (proposal to reconstruct an existing non-complying room at the rear of the property that would include an increase in volume and a new roof form was denied; the proposal to reconstruct the same existing non-complying room at the rear without the increase in volume and without a new roof form was granted; the proposal to construct a new larger deck with a spiral staircase was also granted). VARIANCE CASE NO. 2003.1242V. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Saunders absent) to move the appeal to August 25, 2004.

SPEAKERS: None.

(10) **APPEAL NO. 04-054**

NASEEF MUSLEH, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	1101 Oak Street. Appealing the denial on June 3, 2004, of Permit to Alter a Building (on multi-family/commercial building: separate clergy living quarters from pre-existing church space to establish as a separate dwelling unit). APPLICATION NO. 2004/02/11/6167. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-1(Commissioner Chin dissented) to overrule denial and grant the permit as stated by Vice President Sugaya.

LIST OF PARTIES: Craig Nikitas, permit holder; Jeremy Paul, consultant to the appellant.

PUBLIC COMMENT: None.

There being no further business, President Harrington adjourned the meeting at 8:55 p.m.

Robert H Feld

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

Board of Appeals

August 04, 2004 (No Meeting)

PUBLIC NOTICE

The Board of Appeals has not scheduled a meeting for August 4th, 2004, and has **CANCELLED** the meeting of August 11th, 2004. The next regular meeting is scheduled for **Wednesday, August 18th, 2004, City Hall, Room 416, 5:00 p.m.**, One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any other appeal matter.

FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

Date Posted: **July 29th, 2004**

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, AUGUST 18, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

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(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST(S):

Appeal No(s). 04-039 & 04-051, Thrupp vs. DBI, PDA & Roberts vs. DBI, PDA. Subject property at 309 Cortland Avenue. Letter from Gordon Thrupp and Donna Roberts, appellant(s), requesting rehearing of Appeal No(s). 03-039 and 03-051, decided July 14, 2004. At that time, upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to uphold the subject permit(s). Project, 1st permit: add "other entertainment", ie, live DJ; no occupancy load increase allowed; no construction under this permit. Project, 2nd permit: existing soundproofed rear building space; propose to expand existing establishment, including other entertainment uses, into this area; § 312 notice required pursuant to NSR recorded on Feb. 10, 2003. Permit Holder(s); Patrick Corkery.

(3B) ADOPTION OF FINDINGS:

Appeal No(s). 04-038, 04-039, 04-041, 04-046, and 04-051, Thrupp vs. ZA, Thrupp vs. DBI, PDA, Thrupp vs. EC, Corkery dba "Charlie's Club" vs. EC, & Roberts vs. DBI, PDA, respectively. Subject property at 309 Cortland Avenue. If the above rehearing requests (Item 3A) are denied, the Board may then consider the adoption of findings for all five appeals that were filed concerning the subject property. If the above rehearing requests are granted, the Board may then reschedule this adoption of findings to a later date.

(3C) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 3727 Taraval Street. Permit issued on June 4, 2004. Last day to appeal was June 21, 2004. Jurisdiction request received on July 16, 2004. Letter from Stephen Donnelly & Denise Richards Donelly, asking that the Board take jurisdiction over Building Permit Application No(s). 2003/11/25/1114S. Project: on single-family house, add family room, bedroom, bath and laundry at first floor; extend bedrooms and add solarium and bath at second floor. Permit Holder(s): Karen & Timothy Breen.

(3D) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 1961 Hayes Street. Permit issued on May 18, 2004. Last day to appeal was June 2, 2004. Jurisdiction request received on August 2, 2004. Letter from Linda Stockdale, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/05/18/4230 for the purpose of filing a penalty appeal.

(4) APPEAL NO. 03-154

ULYSSES NAPURI dba "LAST STOP SOUVENIR", Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	498 Beach Street. Appealing the denial on May 5, 2003, of a Sidewalk Display Merchandise Permit. ORDER NO. 174,098. JURISDICTION GRANTED SEPT. 17, 2003. PUBLIC HEARING HELD & CLOSED ON DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

(5) APPEAL NO. 04-035

CRYSTAL LEI, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	337 – 28th Avenue. Appealing the suspension on April 23, 2004, of Building Permit Application No(s). 2003/04/15/2287, 2003/07/15/9528, & 2003/05/27/5515. Reason(s) for suspension: the scope of work and building information described on the building permit applications and approved plans does not reflect the actual condition and legal use of the building. FOR HEARING TODAY.

(6) **APPEAL NO. 04-055**

LEON & VARTENY ZENOUNTIAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2455 – 18th Avenue. Protesting the issuance on June 1, 2004, to Suzanne Choy & Bai Than Li, Permit to Alter a Building (on single-family house: revisions to Building Permit Application No(s). 2003/06/30/8351 per plan; correct 2nd floor ceiling height to 8'4", ground floor ceiling height to 8'2"; correct existing building height (should be lower 20" than building height); addition building height 24'-0" no change). APPLICATION NO. 2004/06/01/5190. FOR HEARING TODAY.

ITEMS (7A) & (7B) SHALL BE HEARD TOGETHER:

(7A) **APPEAL NO. 04-058**

EDWARD BELASCO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2 Wall Place. Protesting the issuance on June 3, 2004, to Adrienna Song, Permit to Demolish a Building (one-story, single-family house with 1000sf of ground floor area). APPLICATION NO. 9918616. FOR HEARING TODAY.

(7B) **APPEAL NO. 04-059**

EDWARD BELASCO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2 Wall Place. Protesting the issuance on June 3, 2004, to Adrienna Song, Permit to Erect a Building (4-story, 3-unit residential building with 1,545sf of ground floor area). APPLICATION NO. 9918617. FOR HEARING TODAY.

(8) **APPEAL NO. 04-092**

FELIX ARTS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	143-145 Pfeiffer Street. Protesting the issuance on March 18, 2004, to Felicia Weston, Permit to Alter a Building (on 2-unit building: interior tenant improvements; work includes remodel of kitchens and bathrooms; electrical and plumbing under separate permit; cabinets, countertops, flooring and fixtures). APPLICATION NO. 2004/03/18/9082. BOARD VOTED 4-0 ON JULY 21, 2004 TO GRANT JURISDICTION. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: **August 12th, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
ARNOLD Y.K. CHIN	**COMMISSIONER**
RANDALL KNOX	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

ecord and will be brought to the attention of the Board at the public hearing. For complete distribution to ll Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

ursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or levelopment permit, you may be limited to raising only those issues you or someone else raised at the ublic hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, r prior to, the public hearing.

alendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken ut of order to accommodate special needs. The Board urges all parties to be present in the hearing oom from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

he ringing of and use of cell phones, pagers and similar sound-producing electronic devices are rohibited at this meeting. Please be advised that the Chair may order the removal from the meeting oom of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-roducing electronic devices.

ACCESSIBILITY INFORMATION

merican sign language interpreters and/or sound enhancement system will be available upon request by ontacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe llergies, environmental illness, multiple chemical sensitivity or related disabilities should call the ccessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to ccommodate such people, attendees at public meetings are reminded that other attendees may be ensitive to various chemical-based products. Please help the City to accommodate these individuals. he closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde nd Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. ccessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega nd the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding UNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

overnment's duty is to serve the public, reaching its decisions in full view of the public. Commissions, oards, councils and other agencies of the City and County exist to conduct the people's business. This rdinance assures that deliberations are conducted before the people and that City operations are open to he people's review.

or more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco dministrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task orce: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett lace, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail onna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the unshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, AUGUST 18, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, Commissioner Sabrina Saunders, and Commissioner Randall Knox.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Jonas Ionin, Planning Department (PD); Leo McFadden, Senior Building Inspector, Dept. of Building Inspection (SBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

PUBLIC COMMENT: Patricia Vaughey thanked the Board for its decision on a recent appeal.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

DOCUMENTS DEPT.

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(3) **ADDENDUM ITEMS:**

(3A) **REHEARING REQUEST(S):**

Appeal No(s). 04-039 & 04-051, Thrupp vs. DBI, PDA & Roberts vs. DBI, PDA. Subject property at 309 Cortland Avenue. Letter from Gordon Thrupp and Donna Roberts, appellant(s), requesting rehearing of Appeal No(s). 03-039 and 03-051, decided July 14, 2004. At that time, upon motion by Commissioner Chin, the Board voted 4-0-1 (Commissioner Shoemaker absent) to uphold the subject permit(s). Project, 1st permit: add "other entertainment", ie, live DJ; no occupancy load increase allowed; no construction under this permit. Project, 2nd permit: existing soundproofed rear building space; propose to expand existing establishment, including other entertainment uses, into this area; § 312 notice required pursuant to NSR recorded on Feb. 10, 2003. Permit Holder(s); Patrick Corkery.

ACTION: Upon motion by Vice President Sugaya, the Board voted 5-0 to deny both requests for rehearing.

LIST OF PARTIES: Donna Roberts, appellant/requestor; Gordon Thrupp, appellant/requestor; Mark Rennie, attorney for project sponsor.

PUBLIC COMMENT: None.

(3B) **ADOPTION OF FINDINGS:**

Appeal No(s). 04-038, 04-039, 04-041, 04-046, and 04-051, Thrupp vs. ZA, Thrupp vs. DBI, PDA, Thrupp vs. EC, Corkery dba "Charlie's Club" vs. EC, & Roberts vs. DBI, PDA, respectively. Subject property at 309 Cortland Avenue. If the above rehearing requests (Item 3A) are denied, the Board may then consider the adoption of findings for all five appeals that were filed concerning the subject property. If the above rehearing requests are granted, the Board may then reschedule this adoption of findings to a later date.

ACTION: Upon motion by President Harrington, the Board voted 5-0 to continue the hearing to September 1, 2004.

LIST OF PARTIES: Catherine Barnes, DCA; Andrew Junius, attorney for project sponsor; Donna Roberts, appellant; Gordon Thrupp, appellant.

PUBLIC COMMENT: None.

(3C) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :**

Subject property at 3727 Taraval Street. Permit issued on June 4, 2004. Last day to appeal was June 21, 2004. Jurisdiction request received on July 16, 2004. Letter from Stephen Donnelly & Denise Richards Donelly, asking that the Board take jurisdiction over Building Permit Application No(s). 2003/11/25/1114S. Project: on single-family house, add family room, bedroom, bath and laundry at first floor; extend bedrooms and add solarium and bath at second floor. Permit Holder(s): Karen & Timothy Breen.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to deny the jurisdiction.

LIST OF PARTIES: Steven Donnelly, requestor; Luis Robles, architect for the permit holder; Jonas Ionin, PD; Leo McFadden, SBI DBI.

PUBLIC COMMENT: None.

(3D) **JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :**

Subject property at 1961 Hayes Street. Permit issued on May 18, 2004. Last day to appeal was June 2, 2004. Jurisdiction request received on August 2, 2004. Letter from Linda Stockdale, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/05/18/4230 for the purpose of filing a penalty appeal.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to grant the jurisdiction.

LIST OF PARTIES: Leo McFadden, SBI DBI; Kevin Stockdale agent for appellant.

PUBLIC COMMENT: None.

(4) APPEAL NO. 03-154

ULYSSES NAPURI dba "LAST STOP SOUVENIR", Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	498 Beach Street. Appealing the denial on May 5, 2003, of a Sidewalk Display Merchandise Permit. ORDER NO. 174,098. JURISDICTION GRANTED SEPT. 17, 2003. PUBLIC HEARING HELD & CLOSED ON DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the hearing to October 6, 2004.

PUBLIC COMMENT: None.

(5) APPEAL NO. 04-035

CRYSTAL LEI, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	337 – 28th Avenue. Appealing the suspension on April 23, 2004, of Building Permit Application No(s). 2003/04/15/2287, 2003/07/15/9528, & 2003/05/27/5515. Reason(s) for suspension: the scope of work and building information described on the building permit applications and approved plans does not reflect the actual condition and legal use of the building. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to continue the hearing to October 6, 2004.

LIST OF PARTIES: Leo McFadden, SBI DBI; Jonas Ionin, PD Dept; Archie Clarizio, attorney for appellant; Mike Rubin, for appellant; for David Wong, appellant; for David Grassi, appellant.

PUBLIC COMMENT: Mike Rubin, a friend of Julie Lee, an attorney with Apple Computers said that a contractor found rotten wood and had to be repaired and that the rear of the structure is still there. David Wong spoke in support of the appellant and said there is no evidence of any intent to violate the Codes. David Grassi contractor for the appellant said the building has been shrunk a little and that no floor has been added.

(6) APPEAL NO. 04-055

LEON & VARTENY ZENOUNTIAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2455 – 18th Avenue. Protesting the issuance on June 1, 2004, to Suzanne Choy & Bai Than Li, Permit to Alter a Building (on single-family house: revisions to Building Permit Application No(s). 2003/06/30/8351 per plan; correct 2nd floor ceiling height to 8'4", ground floor ceiling height to 8'2"; correct existing building height (should be lower 20" than building height); addition building height 24'-0" no change). APPLICATION NO. 2004/06/01/5190. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold the permit.

LIST OF PARTIES: Varteni Zenountian, appellant; Thomas Moyer, attorney for permit holder; Pauline Cheng, for permit holder; Kevin Ng, for permit holder; Tranvi Phuong, for permit holder.

PUBLIC COMMENT: Pauline Chang said the permit should be upheld so that the project can be completed as soon as possible. Kevin Ng said the project wouldn't affect his property. Tranvi Phuong said that the project would also not affect her property.

ITEMS (7A) & (7B) SHALL BE HEARD TOGETHER:

(7A) APPEAL NO. 04-058

EDWARD BELASCO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2 Wall Place. Protesting the issuance on June 3, 2004, to Adrienna Song, Permit to Demolish a Building (one-story, single-family house with 1000sf of ground floor area). APPLICATION NO. 9918616. FOR HEARING TODAY.

(7B) **APPEAL NO. 04-059**

EDWARD BELASCO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2 Wall Place. Protesting the issuance on June 3, 2004, to Adrienna Song, Permit to Erect a Building (4-story, 3-unit residential building with 1,545sf of ground floor area). APPLICATION NO. 9918617. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 5-0 to uphold both permits.

LIST OF PARTIES: Elton Blum, attorney for appellant; Joel Yodowitz, attorney for permit holder; Jonas Ionin, PD; Josephine Belasco, wife of appellant; Gary Briggs, for appellant; Ivy Lee, for appellant; John Pun, for permit holder; Thang Nguyen, for permit holder.

PUBLIC COMMENT: (Appellant) Mrs. Belasco, appellant's mother, spoke in opposition of the project. Gary Briggs said the lane is very turn of the century and the loss of the building would be a loss to the city. Also the proposed building is not in character with the neighborhood; the notice was blocked by a van and not visible to neighbors. Ivy Lee said she feels the building is too big and construction will cause congestion on the street. (Permit Holder) John Pun said there are no reasons to stop this project. Thang Nguyen said that he supports this family project.

(8) **APPEAL NO. 04-092**

FELIX ARTS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	143-145 Pfeiffer Street. Protesting the issuance on March 18, 2004, to Felicia Weston, Permit to Alter a Building (on 2-unit building: interior tenant improvements; work includes remodel of kitchens and bathrooms; electrical and plumbing under separate permit; cabinets, countertops, flooring and fixtures). APPLICATION NO. 2004/03/18/9082. BOARD VOTED 4-0 ON JULY 21, 2004 TO GRANT JURISDICTION. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Chin, the Board voted 5-0 to uphold the subject permit.

LIST OF PARTIES: Andrew Westly, attorney for appellant; Felix Arts, appellant and a contractor; Kathleen Callan, attorney for permit holder; Felicia Weston, permit holder.

PUBLIC COMMENT: None.

There being no further business, President Harrington adjourned the meeting at 7:51 p.m.

Robert H Feldman

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, AUGUST 25, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST:

Appeal No(s). 03-197, All City Construction Co. vs. DBI. Subject property at 641 – 27th Avenue. Letter from Joel Yodowitz, attorney for All City Construction Co., appellant(s), requesting rehearing of Appeal No(s). 03-197, decided May 12, 2004. At that time, upon motion by Commissioner Chin, the Board voted 2-3 to overrule DBI's notice of decision with a finding that a demolition took place which exceeded the scope of the permit, but which did not constitute an unlawful demolition, with additional findings as stated into the record by Commissioner Chin. Four votes being required to overturn a departmental action, the motion failed, and the decision by DBI was upheld. **Departmental Action:** Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 8122 Geary Boulevard. Permit issued on Dec. 5, 2003. Last day to appeal was Dec. 22, 2003. Jurisdiction request received on August 2, 2004. Letter from Robert Boyd & Midori Yamamoto, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2003/12/05/1640 for the purpose of filing a penalty appeal.

(3C) REHEARING REQUEST:

Appeal No(s). 04-040, Green vs. DBI, PDA. Subject property at 835 Bryant Street. Letter from Michael Fiumara, attorney for Mackenzie Green, appellant(s), requesting rehearing of Appeal No(s). 04-040, decided July 28, 2004. At that time, upon motion by Commissioner Chin, the Board voted 5-0 to uphold the permit with the following condition(s): a) that a Notice of Special Restrictions (NSR) be recorded on the land records setting forth these conditions; b) that two (2) 30-gallon trash cans be provided for customer use; c) that janitorial service be provided within 100 feet of the subject property; d) that the bathroom be ADA (Americans with Disabilities Act) accessible; e) that the office (entrance) be ADA accessible; and f) that the permit holder designate a contact person to the Zoning Administrator to deal with compliance issues. Project: build 10' X 26' modular addition off-site and attach to existing 300sf building; add new 200amp single phase main meter panel; install rain gutter between existing building and new modular addition. Permit Holder(s): Pacific Bonding Corporation.

(3D) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 2763 Filbert Street. Permit issued on August 29, 2001. Last day to appeal was Sept. 13, 2001. Jurisdiction request received on August 6, 2004. Letter from John Golob, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2000/05/23/0798. Project: on single-family house, remodel master bathroom, bedroom and closet; rebuild existing stair; reconfigure roof; redo front façade and fireplace; rebuild bay at front and side. Permit Holder(s): Lock & Irene Holmes.

(4) CONSENT ITEMS (DBI PENALTY):

With the consent of the Dept. of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) APPEAL NO. 04-062

WEN SHAO ZHANG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	836 Edinburgh Street. Appeal for refund of penalty imposed on June 21, 2004, for work done without a permit (on single family house: correct NOV # 200341033; add 12'-6" X 12'-6" sunroom and rebuild deck at rear yard). APPLICATION NO. 2003/08/15/2228. FOR HEARING TODAY.

(5) **APPEAL NO. V03-209**

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. **Note:** On March 24, 2004, the Board voted 5-0 to uphold the variance with the following condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature. On May 12, 2004, the Board voted 4-1 to grant the rehearing request by the appellants and to set the rehearing for June 30, 2004. REHEARING HELD & CLOSED ON JULY 28, 2004. FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 04-030**

MARVIN LAU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	714 – 22nd Street. Appealing the denial on April 15, 2004, of a Permit to Alter a Building (on 3-unit residential building: install 12 vinyl windows in kind into existing frames; no structural changes; windows face front and are visible from the street; if applicable, bedroom windows shall comply with § 310.4 for rescue). APPLICATION NO. 2004/04/15/1367. **Note:** On June 9, 2004, the Board voted to uphold the denial of the subject permit. On July 21, 2004, the Board voted to grant the appellant's rehearing request. FOR REHEARING TODAY.

(7) **APPEAL NO. 04-019**

OCEAN PARC VILLAGE HOMEOWNER'S ASSOCATION, Appellant(s) vs. PLANNING DEPARTMENT, Respondent	730 Great Highway. Protesting the issuance on March 8, 2004, to Tom and Breda MacDonald & KTH LLC, Coastal Zone Permit Authorization (proposal is to construct a new 3-story, 4-unit building approximately 32 feet tall on a vacant lot). CASE NO. 2003.1009P. FOR HEARING TODAY.

(8) **APPEAL NO. 04-050**

MARK MIRAVALLE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	1021 Francisco Street. Appealing the denial on May 28, 2004, of a Permit to Alter a Building (convert 2 residential units to single family unit; dwelling merger). APPLICATION NO. 2003/05/30/5840. FOR HEARING TODAY.

(9) **APPEAL NO. V04-052**

LAURA PERRAULT, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	32 Carson Street. Appealing the partial denial of a Rear Yard Variance (proposal to reconstruct an existing non-complying room at the rear of the property that would include an increase in volume and a new roof form was denied; the proposal to reconstruct the same existing non-complying room at the rear without the increase in volume and without a new roof form was granted; the proposal to construct a new larger deck with a spiral staircase was also granted). VARIANCE CASE NO. 2003.1242V. FOR HEARING TODAY.

(10) **APPEAL NO. 04-060**

NEAL SIEGAL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	4444 – 24th Street. Protesting the issuance on June 7, 2004, to Steven Roseman, Permit to Alter a Building (on single-family house: construct concrete retaining wall per drawings; remove NOV #200450627). APPLICATION NO. 2004/06/07/5711. FOR HEARING TODAY.

(11) **APPEAL NO. 04-061**

YOSEF MAMAN dba "JOSEPH CAPPUCCI HAIR SALON & SPA", Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	82 – 2nd Street. Appealing a determination dated June 4, 2004, addressed to Yosef Maman, that a massage establishment as an accessory use is allowed at the subject property with the following condition(s): a) the area devoted to massage shall be accessed only through space controlled by the hair salon; b) the floor area devoted to massage shall not exceed 25% of the total floor area of the hair salon, and in the event the total floor area of the hair salon exceeds 1,200sf, the maximum floor area that can be devoted to massage shall not exceed 300sf; and c) at any given time, there shall be no more than two massage therapists administering massages. FOR HEARING TODAY.

(12) **APPEAL NO. 04-064**

JOEL BELAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	711-713 Page Street. Protesting the issuance on June 8, 2004, to Betty Hung, Permit to Alter a Building (on 2-unit residential building: remove illegal kitchen only at rear of garage level; retain guest bedroom; cap all utilities at source). APPLICATION NO. 2004/06/08/5795. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda. Date posted: **August 19th, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	PRESIDENT
HISASHI B. SUGAYA	VICE PRESIDENT
ARNOLD Y.K. CHIN	COMMISSIONER
RANDALL KNOX	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

ecord and will be brought to the attention of the Board at the public hearing. For complete distribution to ll Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

ursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or levelopment permit, you may be limited to raising only those issues you or someone else raised at the ublic hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, r prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken ut of order to accommodate special needs. The Board urges all parties to be present in the hearing oom from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are rohibited at this meeting. Please be advised that the Chair may order the removal from the meeting oom of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar soundroducing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to he people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, AUGUST 25, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, Commissioner Sabrina Saunders, and Commissioner Randall Knox.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Craig Nikitas, Planning Department (PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (SBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

LIST OF PARTIES: Laurence Kornfield, CBI DBI; Jeremy Paul.

PUBLIC COMMENT: Jeremy Paul thanked Commissioner Chin for all his efforts on the BOA, and asked the Board to improve the process for enforcement of conditions imposed by the Board.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:**

(3A) **REHEARING REQUEST:**

DOCUMENTS DEPT.

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Appeal No(s). 03-197, All City Construction Co. vs. DBI. Subject property at 641 – 27th Avenue. Letter from Joel Yodowitz, attorney for All City Construction Co., appellant(s), requesting rehearing of Appeal No(s). 03-197, decided May 12, 2004. At that time, upon motion by Commissioner Chin, the Board voted 2-3 to overrule DBI's notice of decision with a finding that a demolition took place which exceeded the scope of the permit, but which did not constitute an unlawful demolition, with additional findings as stated into the record by Commissioner Chin. Four votes being required to overturn a departmental action, the motion failed, and the decision by DBI was upheld. **Departmental Action:** Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-0-1 (Commissioner Chin absent) to reschedule the hearing to September 29, 2004.

LIST OF PARTIES: Joel Yodowitz, attorney for appellant; Ken Harrington, DBI.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 8122 Geary Boulevard. Permit issued on Dec. 5, 2003. Last day to appeal was Dec. 22, 2003. Jurisdiction request received on August 2, 2004. Letter from Robert Boyd & Midori Yamamoto, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2003/12/05/1640 for the purpose of filing a penalty appeal.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to grant jurisdiction.

LIST OF PARTIES: Laurence Kornfield, DBI.

(3C) REHEARING REQUEST:

Appeal No(s). 04-040, Green vs. DBI, PDA. Subject property at 835 Bryant Street. Letter from Michael Fiumara, attorney for Mackenzie Green, appellant(s), requesting rehearing of Appeal No(s). 04-040, decided July 28, 2004. At that time, upon motion by Commissioner Chin, the Board voted 5-0 to uphold the permit with the following condition(s): a) that a Notice of Special Restrictions (NSR) be recorded on the land records setting forth these conditions; b) that two (2) 30-gallon trash cans be provided for customer use; c) that janitorial service be provided within 100 feet of the subject property; d) that the bathroom be ADA (Americans with Disabilities Act) accessible; e) that the office (entrance) be ADA accessible; and f) that the permit holder designate a contact person to the Zoning Administrator to deal with compliance issues. Project: build 10' X 26' modular addition off-site and attach to existing 300sf building; add new 200amp single phase main meter panel; install rain gutter between existing building and new modular addition. Permit Holder(s): Pacific Bonding Corporation.

ACTION: None. Request withdrawn.

(3D) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 2763 Filbert Street. Permit issued on August 29, 2001. Last day to appeal was Sept. 13, 2001. Jurisdiction request received on August 6, 2004. Letter from John Golob, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2000/05/23/0798. Project: on single-family house, remodel master bathroom, bedroom and closet; rebuild existing stair; reconfigure roof; redo front façade and fireplace; rebuild bay at front and side. Permit Holder(s): Lock & Irene Holmes.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to deny the jurisdiction request.

LIST OF PARTIES: Steve Holmes, permit holder; Irene Holmes, permit holder; Laurence Kornfeild, CBI DBI; Craig Nikitas, PD; requestor no-show.

PUBLIC COMMENT: No public comment.

(4) CONSENT ITEMS (DBI PENALTY):

With the consent of the Dept. of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) APPEAL NO. 04-062

WEN SHAO ZHANG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	836 Edinburgh Street. Appeal for refund of penalty imposed on June 21, 2004, for work done without a permit (on single family house: correct NOV # 200341033; add 12'-6" X 12'-6" sunroom and rebuild deck at rear yard). APPLICATION NO. 2003/08/15/2228. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Knox, the Board voted 4-0-1 (Commissioner Chin absent) to reduce the penalty to 6 times the regular fee.

LIST OF PARTIES: Clement Yen, represented the appellant who doesn't speak English; Laurence Kornfield, DBI; Alex Zhang, agent for appellant.

PUBLIC COMMENT: No public comment.

(5) APPEAL NO. V03-209

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. **Note:** On March 24, 2004, the Board voted 5-0 to uphold the variance with the following condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature. On May 12, 2004, the Board voted 4-1 to grant the rehearing request by the appellants and to set the

	rehearing for June 30, 2004. REHEARING HELD & CLOSED ON JULY 28, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to reschedule the hearing to September 29, 2004.

LIST OF PARTIES: Catherine Feneina, co-appellant; Jay Capela, co-permit holder.

PUBLIC COMMENT: None.

(6) **APPEAL NO. 04-030**

MARVIN LAU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	714 – 22nd Street. Appealing the denial on April 15, 2004, of a Permit to Alter a Building (on 3-unit residential building: install 12 vinyl windows in kind into existing frames; no structural changes; windows face front and are visible from the street; if applicable, bedroom windows shall comply with § 310.4 for rescue). APPLICATION NO. 2004/04/15/1367. **Note:** On June 9, 2004, the Board voted to uphold the denial of the subject permit. On July 21, 2004, the Board voted to grant the appellant's rehearing request. FOR REHEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to reschedule the hearing to September 29, 2004.

LIST OF PARTIES: Marvin Lam, appellant.

(7) **APPEAL NO. 04-019**

OCEAN PARC VILLAGE HOMEOWNER'S ASSOCATION, Appellant(s) vs. PLANNING DEPARTMENT, Respondent	730 Great Highway. Protesting the issuance on March 8, 2004, to Tom and Breda MacDonald & KTH LLC, Coastal Zone Permit Authorization (proposal is to construct a new 3-story, 4-unit building approximately 32 feet tall on a vacant lot). CASE NO. 2003.1009P. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 5-0 to reschedule the hearing to November 17, 2004.

(8) **APPEAL NO. 04-050**

MARK MIRAVALLE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	1021 Francisco Street. Appealing the denial on May 28, 2004, of a Permit to Alter a Building (convert 2 residential units to single family unit; dwelling merger). APPLICATION NO. 2003/05/30/5840. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 5-0 to reschedule the hearing to September 29, 2004.

(9) **APPEAL NO. V04-052**

LAURA PERRAULT, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	32 Carson Street. Appealing the partial denial of a Rear Yard Variance (proposal to reconstruct an existing non-complying room at the rear of the property that would include an increase in volume and a new roof form was denied; the proposal to reconstruct the same existing non-complying room at the rear without the increase in volume and without a new roof form was granted; the proposal to construct a new larger deck with a spiral staircase was also granted). VARIANCE CASE NO. 2003.1242V. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to reschedule the hearing to September 29, 2004.

LIST OF PARTIES: Jeremy Paul, agent for appellant; Craig Nikitas, PD.

(10) **APPEAL NO. 04-060**

NEAL SIEGAL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	4444 – 24th Street. Protesting the issuance on June 7, 2004, to Steven Roseman, Permit to Alter a Building (on single-family house: construct concrete retaining wall per drawings; remove NOV #200450627). APPLICATION NO. 2004/06/07/5711. FOR HEARING TODAY.

ACTION: None. Appeal withdrawn.

(11) **APPEAL NO. 04-061**

YOSEF MAMAN dba "JOSEPH CAPPUCCI HAIR SALON & SPA", Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	82 – 2nd Street. Appealing a determination dated June 4, 2004, addressed to Yosef Maman, that a massage establishment as an accessory use is allowed at the subject property with the following condition(s): a) the area devoted to massage shall be accessed only through space controlled by the hair salon; b) the floor area devoted to massage shall not exceed 25% of the total floor area of the hair salon, and in the event the total floor area of the hair salon exceeds 1,200sf, the maximum floor area that can be devoted to massage shall not exceed 300sf; and c) at any given time, there shall be no more than two massage therapists administering massages. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to continue the hearing to October 6, 2004.

LIST OF PARTIES: Craig Nikitas, PD; Yosef Manian, appellant; Laurence Kornfield, CBI DBI.

PUBLIC COMMENT: No public comment.

(12) **APPEAL NO. 04-064**

JOEL BELAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	711-713 Page Street. Protesting the issuance on June 8, 2004, to Betty Hung, Permit to Alter a Building (on 2-unit residential building: remove illegal kitchen only at rear of garage level; retain guest bedroom; cap all utilities at source). APPLICATION NO. 2004/06/08/5795. FOR HEARING TODAY.

ACTION: None. Appeal withdrawn.

There being no further business, President Harrington adjourned the meeting at 6:25 p.m.

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, SEPTEMBER 1, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

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08-27-04A11:07 RCVD

(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST:

Appeal No(s). 04-053, Roberts vs. DBI, PDA. Subject property at 116-118 Beulah Street. Letter from Katherine Roberts, appellant(s), requesting rehearing of Appeal No(s). 04-053, decided July 28, 2004. At that time, upon motion by Commissioner Chin, the Board voted 5-0 to uphold the subject permit. Project: on 2-unit residential building: application submittal to City Planning for review of horizontal expansion of garage into a light well; previously issued in-kind under Building Permit Application No(s). 2003/12/10/2000. Permit Holder(s): Eric Deeds et al.

(3B) ADOPTION OF FINDINGS:

Appeal No(s). 04-038, 04-039, 04-041, 04-046, and 04-051, Thrupp vs. ZA, Thrupp vs. DBI, PDA, Thrupp vs. EC, Corkery dba "Charlie's Club" vs. EC, & Roberts vs. DBI, PDA, respectively. Subject property at 309 Cortland Avenue. If the above rehearing requests (Item 3A) are denied, the Board may then consider the adoption of findings for all five appeals that were filed concerning the subject property. If the above rehearing requests are granted, the Board may then reschedule this adoption of findings to a later date. **Note:** Hearing on adoption of findings held on August 18, 2004. For further consideration today.

(4) **SPECIAL ITEM:**

Public hearing, discussion and adoption of the Board of Appeals Incompatible Activities Statement as required by the San Francisco Campaign and Governmental Conduct Code § 3.218. Copies are available at the Board office. Please address comments to Executive Secretary Robert Feldman, Board of Appeals, 1660 Mission Street #3036, SF, CA 94103. Telephone (415) 575-6880, fax (415) 575-6885, or email at robert.feldman@sfgov.org.

(5) **APPEAL NO. 04-024**

JOHN ATWATER & DIANA NELSON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	3746 Jackson Street. Appealing a determination dated March 16, 2004, addressed to David Cincotta, that the proposed expansion, which is not within the front portion of the property where a height increase is permitted, and which, in any case, extends above the 35 foot absolute height limit, would not be allowed under Planning Code §§ 261(b)(1), 261(c), 261(c)(1), and 261(c)(2). FOR HEARING TODAY.

(6) **APPEAL NO. 04-065**

PEGGY GALEB & JOHN WHITE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	2349 Franklin Street. Appealing the denial on June 21, 2004, of Permit to Alter a Building (unit merger from three units to two units; HIS records indicate four units; B.P.A. No(s). 8904760 (expired) to alter from four units to three units, and B.P.A. No(s). 2000/11/29/6746 (cancelled) to alter from three units to two units; to establish record from three units to two units in 2003). APPLICATION NO. 2003/11/21/0857. FOR HEARING TODAY.

(7) **APPEAL NO. 04-067**

TATYANA PELESHENKO & NATALYA GOLUBCHIKOV, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPARTMENT APPROVAL	2335 – 26th Avenue. Protesting the issuance on June 15, 2004, to Victoria Ayala, Permit to Alter a Building (on single-family house: demolish kitchenette per NOV; restore bedroom). APPLICATION NO. 2004/06/15/6484. FOR HEARING TODAY.

(8) **APPEAL NO. 04-069**

ROB CASSIL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	851 Post Street. Appealing the denial on July 1, 2004, of Permit to Alter a Building (correct the record and restore legal use of building to 23 units; Certificate of Final Completion No(s). 399417 issued Feb. 21, 1980 shows 22 apartments; to clarify merger of units 3 and 3A; there is no change in numbers of rooms or floors of occupancy). APPLICATION NO. 2004/06/18/6770. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: **August 26th, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
ARNOLD Y.K. CHIN	**COMMISSIONER**
RANDALL KNOX	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

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Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

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Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing oom from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when t is called.

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, SEPTEMBER 1, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, Commissioner Sabrina Saunders, and Commissioner Randall Knox.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Julian Banales, Planning Department (PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) **PUBLIC COMMENT**:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS**:

(3) **ADDENDUM ITEMS**:

(3A) REHEARING REQUEST:

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Appeal No(s). 04-053, Roberts vs. DBI, PDA. Subject property at 116-118 Beulah Street. Letter from Katherine Roberts, appellant(s), requesting rehearing of Appeal No(s). 04-053, decided July 28, 2004. At that time, upon motion by Commissioner Chin, the Board voted 5-0 to uphold the subject permit. Project: on 2-unit residential building: application submittal to City Planning for review of horizontal expansion of garage into a light well; previously issued in-kind under Building Permit Application No(s). 2003/12/10/2000. Permit Holder(s): Eric Deeds et al.

ACTION: Upon motion by President Harrington. The Board voted 4-0-1 (Commissioner Chin absent) to reschedule the hearing to September 8, 2004.

LIST OF PARTIES: Howard Hership, agent for appellant; Joma Jones, co-permit holder.

PUBLIC COMMENT: None.

(3B) **ADOPTION OF FINDINGS:**

Appeal No(s). 04-038, 04-039, 04-041, 04-046, and 04-051, Thrupp vs. ZA, Thrupp vs. DBI, PDA, Thrupp vs. EC, Corkery dba "Charlie's Club" vs. EC, & Roberts vs. DBI, PDA, respectively. Subject property at 309 Cortland Avenue. If the above rehearing requests (Item 3A) are denied, the Board may then consider the adoption of findings for all five appeals that were filed concerning the subject property. If the above rehearing requests are granted, the Board may then reschedule this adoption of findings to a later date. **Note:** Hearing on adoption of findings held on August 18, 2004. For further consideration today.

ACTION: Upon motion by President Harrington, the Board voted 3-0-2 (Commissioner Chin & Saunders absent) to adopt the findings with the clerical correction as stated by Andrew Junius.

LIST OF PARTIES: Andrew Junius, attorney for permit holder; Gordon Thrupp, appellant.

PUBLIC COMMENT: None.

(4) **SPECIAL ITEM:**

Public hearing, discussion and adoption of the Board of Appeals Incompatible Activities Statement as required by the San Francisco Campaign and Governmental Conduct Code § 3.218. Copies are available at the Board office. Please address comments to Executive Secretary Robert Feldman, Board of Appeals, 1660 Mission Street #3036, SF, CA 94103. Telephone (415) 575-6880, fax (415) 575-6885, or email at robert.feldman@sfgov.org.

ACTION: Rescheduled to the In-Limbo calendar.

PUBLIC COMMENT: None.

(5) **APPEAL NO. 04-024**

JOHN ATWATER & DIANA NELSON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	3746 Jackson Street. Appealing a determination dated March 16, 2004, addressed to David Cincotta, that the proposed expansion, which is not within the front portion of the property where a height increase is permitted, and which, in any case, extends above the 35 foot absolute height limit, would not be allowed under Planning Code §§ 261(b)(1), 261(c), 261(c)(1), and 261(c)(2). FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 3-0-2 (Commissioner Chin & Saunders absent) to reschedule the hearing to September 29, 2004.

LIST OF PARTIES: David Cincotta, attorney for appellant.

PUBLIC OMMENT: None.

(6) **APPEAL NO. 04-065**

PEGGY GALEB & JOHN WHITE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	2349 Franklin Street. Appealing the denial on June 21, 2004, of Permit to Alter a Building (unit merger from three units to two units; HIS records indicate four units; B.P.A. No(s). 8904760 (expired) to alter from four units to three units, and B.P.A. No(s). 2000/11/29/6746 (cancelled) to alter from three units to two units; to establish record from three units to two units in 2003). APPLICATION NO. 2003/11/21/0857. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1(Commissioner Chin absent) to continue hearing to September 22, 2004.

LIST OF PARTIES: Julian Banales, PD; Gary Jerabeck, agent for appellant; Laurence Kornfield, DBI.

PUBLIC COMMENT: None.

(7) **APPEAL NO. 04-067**

TATYANA PELESHENKO & NATALYA GOLUBCHIKOV, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPARTMENT APPROVAL	2335 – 26th Avenue. Protesting the issuance on June 15, 2004, to Victoria Ayala, Permit to Alter a Building (on single-family house: demolish kitchenette per NOV; restore bedroom). APPLICATION NO. 2004/06/15/6484. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to reschedule the hearing to September 8, 2004 and also for the Appellant to submit a letter of withdrawal.

PUBLIC COMMENT: None.

(8) **APPEAL NO. 04-069**

ROB CASSIL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	851 Post Street. Appealing the denial on July 1, 2004, of Permit to Alter a Building (correct the record and restore legal use of building to 23 units; Certificate of Final Completion No(s). 399417 issued Feb. 21, 1980 shows 22 apartments; to clarify merger of units 3 and 3A; there is no change in numbers of rooms or floors of occupancy). APPLICATION NO. 2004/06/18/6770. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to overrule denial and grant the permit with a finding that the legal use of the building is 23 units.

LIST OF PARTIES: Jeremy Paul, agent for appellant; Laurence Kornfield, CBI DBI.

PUBLIC COMMENT: None.

There being no further business, President Harrington adjourned the meeting at 5:57 p.m.

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, SEPTEMBER 8, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

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(3) ADDENDUM ITEMS:

(3A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 129 Westwood Drive. Permit issued on June 2, 2004. Last day to appeal was June 17, 2004. Jurisdiction request received on August 17, 2004. Letter from Jeffrey Livingston, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/06/02/5323. Project: on single-family house, add exercise room, family room, laundry room and full bath at basement; relocate existing bathroom fixtures and walls. Permit Holder(s): John Zhou.

(3B) REHEARING REQUEST:

Appeal No(s). 04-053, Roberts vs. DBI, PDA. Subject property at 116-118 Beulah Street. Letter from Katherine Roberts, appellant(s), requesting rehearing of Appeal No(s). 04-053, decided July 28, 2004. At that time, upon motion by Commissioner Chin, the Board voted 5-0 to uphold the subject permit. Project: on 2-unit residential building: application submittal to City Planning for review of horizontal expansion of garage into a light well; previously issued in-kind under Building Permit Application No(s). 2003/12/10/2000. Permit Holder(s): Eric Deeds et al.

(4) **APPEAL NO. 04-099**

RAYMOND DEACAREZA, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the denial on August 9, 2004, of a request for reinstatement of a Driver of Public Passenger Vehicle for Hire Permit. RESOLUTION NO. 2004-40. FOR HEARING TODAY.

(5) **APPEAL NO. 04-067**

TATYANA PELESHENKO & NATALYA GOLUBCHIKOV, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPARTMENT APPROVAL	2335 – 26th Avenue. Protesting the issuance on June 15, 2004, to Victoria Ayala, Permit to Alter a Building (on single-family house: demolish kitchenette per NOV; restore bedroom). APPLICATION NO. 2004/06/15/6484. FOR HEARING TODAY.

(6) **APPEAL NO. 04-070**

RUSSIAN HILL COMMUNITY ASSOCIATION, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPARTMENT APROVAL	1170-1180 Green Street. Protesting the issuance on June 17, 2004, to Jeffrey Horowitz, Permit to Alter a Building (on 6-unit apartment building: expansion of building by addition of partial 3rd floor, renovation of 2nd floor, and conversion of some crawl space to automobile parking). APPLICATION NO. 9925728S. FOR HEARING TODAY.

(7) **APPEAL NO. 04-071**

NANCY LA FORGIA, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPARTMENT APROVAL	77 Seneca Avenue. Protesting the issuance on June 22, 2004, to Shi Guo Chen, Permit to Alter a Building (on single-family house: new deck, 25' X 12'; address NOV No. 200450711). APPLICATION NO. 2004/06/22/7013. FOR HEARING TODAY.

(8) **APPEAL NO. 04-072**

HUMBERTO & ARACELY AGUILA, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPARTMENT APROVAL	1883 – 38th Avenue. Protesting the issuance on June 18, 2004, to Wai Kit Kwan, Permit to Alter a Building (on single-family house: construct vertical addition consisting of 3 bedrooms and 1 full bath). APPLICATION NO. 2003/04/08/1712S. FOR HEARING TODAY.

ADJOURNMENT.

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Date posted: **September 2nd, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
ARNOLD Y.K. CHIN	**COMMISSIONER**
RANDALL KNOX	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, SEPTEMBER 8, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin, Commissioner Sabrina Saunders, and Commissioner Randall Knox.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Julian Banales, Planning Department (PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (SBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

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SPEAKERS: None.

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(2) COMMISSIONERS COMMENTS & QUESTIONS:

SPEAKERS: None.

(3) ADDENDUM ITEMS:

(3A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 129 Westwood Drive. Permit issued on June 2, 2004. Last day to appeal was June 17, 2004. Jurisdiction request received on August 17, 2004. Letter from Jeffrey Livingston, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/06/02/5323. Project: on single-family house, add exercise room, family room, laundry room and full bath at basement; relocate existing bathroom fixtures and walls. Permit Holder(s): John Zhou.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to grant jurisdiction & to schedule the appeal for November 10, 2004.

LIST OF PARTIES: Jeffrey Livingston, requestor; Laurence Kornfield, DBI.

PUBLIC COMMENT: (For requestor) Peggy Nakatzu spoke in support of requestor.

(3B) **REHEARING REQUEST:**

Appeal No(s). 04-053, Roberts vs. DBI, PDA. Subject property at 116-118 Beulah Street. Letter from Katherine Roberts, appellant(s), requesting rehearing of Appeal No(s). 04-053, decided July 28, 2004. At that time, upon motion by Commissioner Chin, the Board voted 5-0 to uphold the subject permit. Project: on 2-unit residential building: application submittal to City Planning for review of horizontal expansion of garage into a light well; previously issued in-kind under Building Permit Application No(s). 2003/12/10/2000. Permit Holder(s): Eric Deeds et al.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to deny Request for Rehearing.

LIST OF PARTIES: Howard Herships, agent for appellant; Joma Jones, co-permit holder; Laurence Badiner, Zoning Administrator.

PUBLIC COMMENT: None.

(4) **APPEAL NO. 04-099**

RAYMOND DEACAREZA, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the denial on August 9, 2004, of a request for reinstatement of a Driver of Public Passenger Vehicle for Hire Permit. RESOLUTION NO. 2004-40. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to reschedule the hearing to September 22, 2004.

LIST OF PARTIES: Sherry Gendelman, attorney for appellant; Jimi Harris, Taxi Commission.

(5) **APPEAL NO. 04-067**

TATYANA PELESHENKO & NATALYA GOLUBCHIKOV, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPARTMENT APPROVAL	2335 – 26th Avenue. Protesting the issuance on June 15, 2004, to Victoria Ayala, Permit to Alter a Building (on single-family house: demolish kitchenette per NOV; restore bedroom). APPLICATION NO. 2004/06/15/6484. FOR HEARING TODAY.

ACTION: None. Appeal withdrawn by the appellants.

(6) **APPEAL NO. 04-070**

RUSSIAN HILL COMMUNITY ASSOCIATION, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPARTMENT APROVAL	1170-1180 Green Street. Protesting the issuance on June 17, 2004, to Jeffrey Horowitz, Permit to Alter a Building (on 6-unit apartment building: expansion of building by addition of partial 3rd floor, renovation of 2nd floor, and conversion of some crawl space to automobile parking). APPLICATION NO. 9925728S. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to move the hearing to September 22, 2004 at the request of the parties.

SPEAKERS: None.

(7) **APPEAL NO. 04-071**

NANCY LA FORGIA, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPARTMENT APROVAL	77 Seneca Avenue. Protesting the issuance on June 22, 2004, to Shi Guo Chen, Permit to Alter a Building (on single-family house: new deck, 25' X 12'; address NOV No. 200450711). APPLICATION NO. 2004/06/22/7013. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to reschedule the hearing to Call of Chair.

LIST OF PARTIES: Nancy LaForgia, appellant; Shi Guo Chen, permit holder, through translation by Amy Yu; LB, ZA; Eugene Chen, agent for permit holder.

PUBLIC COMMENT: None.

(8) **APPEAL NO. 04-072**

HUMBERTO & ARACELY AGUILA, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPARTMENT APROVAL	1883 – 38th Avenue. Protesting the issuance on June 18, 2004, to Wai Kit Kwan, Permit to Alter a Building (on single-family house: construct vertical addition consisting of 3 bedrooms and 1 full bath). APPLICATION NO. 2003/04/08/1712S. FOR HEARING TODAY.

ACTION: None. Appeal withdrawn by the appellants.

There being no further business, President Harrington adjourned the meeting at 5:57 p.m.

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

Board of Appeals

September 15, 2004 (No Meeting)

PUBLIC NOTICE

The Board of Appeals has not scheduled a meeting for Sept. 15th, 2004. The next regular meeting is scheduled for **Wednesday, Sept. 22nd, 2004, City Hall, Room 416, 5:00 p.m.,** One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any other appeal matter.

FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

Date Posted: **Sept. 9th, 2004**

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, SEPTEMBER 22, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS: None.

(4) APPEAL NO. 04-065

PEGGY GALEB & JOHN WHITE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	2349 Franklin Street. Appealing the denial on June 21, 2004, of Permit to Alter a Building (unit merger from three units to two units; HIS records indicate four units; B.P.A. No(s). 8904760 (expired) to alter from four units to three units, and B.P.A. No(s). 2000/11/29/6746 (cancelled) to alter from three units to two units; to establish record from three units to two units in 2003). APPLICATION NO. 2003/11/21/0857. PUBLIC HEARING HELD ON SEPT. 1, 2004. FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. 04-099**

RAYMOND DEOCAREZA, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the denial on August 9, 2004, of a request for reinstatement of a Driver of Public Passenger Vehicle for Hire Permit. RESOLUTION NO. 2004-40. FOR HEARING TODAY.

(6) **APPEAL NO. 04-081**

LANE LOUIE, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	950 Grant Avenue. Protesting the issuance on July 2, 2004, to Elaine Chiu dba "Grand Palace", Sidewalk Display Merchandise Permit. PERMIT NO. 04D-265. FOR HEARING TODAY.

(7) **APPEAL NO. 03-087**

BILL & LUBA GOWER, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2250 Jackson Street. Appealing a determination dated May 20, 2003, addressed to Gary Bell, that the legal use of the subject property is a 5-unit apartment building based on available prior building permits and land use records. FOR HEARING TODAY.

(8) **APPEAL NO. 04-037**

ANTHONY DUMONT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	155 Westwood Drive. Appealing a Notice of Decision by Dept. of Building Inspection Director Frank Chiu, dated April 19, 2004, revoking Building Permit Application No(s). 2003/05/19/4954, 2003/08/05/1263, and 2003/08/21/2731. Reason(s) for revocation: construction at the subject property exceeded the scope of the first two permits; and the third permit was issued in error due to false information supplied by the permit applicant. FOR HEARING TODAY.

(9) **APPEAL NO. 04-070**

RUSSIAN HILL COMMUNITY ASSOCIATION, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPARTMENT APROVAL	1170-1180 Green Street. Protesting the issuance on June 17, 2004, to Jeffrey Horowitz, Permit to Alter a Building (on 6-unit apartment building: expansion of building by addition of partial 3rd floor, renovation of 2nd floor, and conversion of some crawl space to automobile parking). APPLICATION NO. 9925728S. FOR HEARING TODAY.

(10) **APPEAL NO. 04-076**

JOHN & LESLIE WOODWARD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	65 Caselli Avenue. Protesting the issuance on June 30, 2004, to Stewart Oaten, Permit to Alter a Building (on 2-unit building: replace existing deck, extend about 4'0" and new stairs). APPLICATION NO. 2004/06/30/7682. FOR HEARING TODAY.

(11) **APPEAL NO. 04-077**

DEL CURTO PROPERTIES, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	540 Cole Street. Appealing the denial on July 14, 2004, of Permit to Alter a Building (correct the record to show R3/1 unit for rear building; to legalize existing unit). APPLICATION NO. 2004/01/12/3836. FOR HEARING TODAY.

(12) **APPEAL NO. 04-078**

CHRISTIAN ARD & REBECCA MOSHER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	357 Howth Street. Protesting the issuance on July 1, 2004, to Nikolai Massenkoff, Permit to Alter a Building (on single family house: replace and enclose back of house deck; provide siding below deck for storage space). APPLICATION NO. 2003/04/21/2744. FOR HEARING TODAY.

(13) **APPEAL NO. 04-082**

HARLAN RICHARDSON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	524 Day Street. Protesting the issuance on June 30, 2004, to Patty Jepson, Permit to Alter a Building (on single-family house: kitchen and entry remodel; replace windows and garage door). APPLICATION NO. 2004/06/30/7701. FOR HEARING TODAY.

ITEMS (14A) & (14B) SHALL BE HEARD TOGETHER:

(14A) **APPEAL NO. 04-079**

COMMUNITIES FOR A BETTER ENVIRONMENT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1201 Illinois Street. Protesting the issuance on July 6, 2004, to Mirant Potrero LLC, Permit to Alter a Building (on an industrial power building: installation of an aqueous ammonia storage area; removal of existing pavement; partial excavation and removal of existing earth and concrete for new ammonia storage area and sump; excavation of remaining soil within sump area; installation of H-poles for support of containment sump and ammonia storage tank; installation of re-enforced concrete-mat foundation, walls and support piers for the sump and ammonia storage tank; backfilling as required; installation of drain from truck unloading drive to sump; installation of reinforced concrete for diked area slab, walls, footings, equipment pads and truck unloading drive; installation of structural steel for sump cover, stairs and electrical equipment canopy; final paving around disturbed area; tank installation under separate permit; existing building work part of separate permit). APPLICATION NO. 2004/02/19/6692. FOR HEARING TODAY.

(14B) **APPEAL NO. 04-080**

COMMUNITIES FOR A BETTER ENVIRONMENT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1201 Illinois Street. Protesting the issuance on July 6, 2004, to Mirant Potrero LLC, Permit to Alter a Building (on an industrial power building: structural work involved in the alteration of the existing power plant structure for the installation of selective catalatic reduction (SCR) equipment for Nox removal; installation of new steel and catwalks within existing structure and reinforcement of existing steel for the revised flues and new piping, skids and manifold valve stations). APPLICATION NO. 2004/03/08/7971. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Permit holder's, Respondent's or Other Parties' Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 415-575-6880 if you have any questions concerning this agenda.

Date posted: **September 14th, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	PRESIDENT
HISASHI B. SUGAYA	VICE PRESIDENT
ARNOLD Y.K. CHIN	COMMISSIONER
RANDALL KNOX	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, SEPTEMBER 22, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin (Absent), Commissioner Sabrina Saunders (Absent), and Commissioner Randall Knox.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Lois Scott, Planning Department (PD); Leo McFadden, Senior Building Inspector, Dept. of Building Inspection (SBI DBI); John Kwong, Dept. of Public Works, Bureau of Street Use & Mapping (DPW BSM); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

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(3) **ADDENDUM ITEMS:** None.

(4) **APPEAL NO. 04-065**

PEGGY GALEB & JOHN WHITE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	2349 Franklin Street. Appealing the denial on June 21, 2004, of Permit to Alter a Building (unit merger from three units to two units; HIS records indicate four units; B.P.A. No(s). 8904760 (expired) to alter from four units to three units, and B.P.A. No(s). 2000/11/29/6746 (cancelled) to alter from three units to two units; to establish record from three units to two units in 2003). APPLICATION NO. 2003/11/21/0857. PUBLIC HEARING HELD ON SEPT. 1, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: None-Withdrawn by Appellant.

(5) APPEAL NO. 04-099

RAYMOND DEOCAREZA, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the denial on August 9, 2004, of a request for reinstatement of a Driver of Public Passenger Vehicle for Hire Permit. RESOLUTION NO. 2004-40. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 3-0-2 (Commissioners Chin & Saunders absent) to reschedule the hearing to September 29, 2004.

SPEAKERS: None.

PUBLIC COMMENT: None.

(6) APPEAL NO. 04-081

LANE LOUIE, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	950 Grant Avenue. Protesting the issuance on July 2, 2004, to Elaine Chiu dba “Grand Palace”, Sidewalk Display Merchandise Permit. PERMIT NO. 04D-265. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 3-0-2 (Commissioners Chin & Saunders absent) to reschedule the hearing to November 10, 2004.

LIST OF PARTIES: Lane Louie, appellant; Albert Chang, agent of permit holder.

PUBLIC COMMENT: None.

(7) APPEAL NO. 03-087

BILL & LUBA GOWER, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2250 Jackson Street. Appealing a determination dated May 20, 2003, addressed to Gary Bell, that the legal use of the subject property is a 5-unit apartment building based on available prior building permits and land use records. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 3-0-2 (Commissioners Chin & Saunders absent) to reschedule the hearing to November 10, 2004, at the request of the parties.

SPEAKERS: None.

(8) APPEAL NO. 04-037

ANTHONY DUMONT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	155 Westwood Drive. Appealing a Notice of Decision by Dept. of Building Inspection Director Frank Chiu, dated April 19, 2004, revoking Building Permit Application No(s). 2003/05/19/4954, 2003/08/05/1263, and 2003/08/21/2731. Reason(s) for revocation: construction at the subject property exceeded the scope of the first two permits; and the third permit was issued in error due to false information supplied by the permit applicant. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the board voted 3-0-2 (Commissioners Chin & Saunders absent) to reschedule the hearing to November 10, 2004, at the request of the parties.

SPEAKERS: None.

(9) APPEAL NO. 04-070

RUSSIAN HILL COMMUNITY ASSOCIATION, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPARTMENT APROVAL	1170-1180 Green Street. Protesting the issuance on June 17, 2004, to Jeffrey Horowitz, Permit to Alter a Building (on 6-unit apartment building: expansion of building by addition of partial 3rd floor, renovation of 2nd floor, and conversion of some crawl space to automobile parking). APPLICATION NO. 9925728S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Knox, the board voted 3-0-2 (Commissioners Chin & Saunders absent) to reschedule the hearing to November 10, 2004, at the request of the parties.

SPEAKERS: None.

(10) **APPEAL NO. 04-076**

JOHN & LESLIE WOODWARD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	65 Caselli Avenue. Protesting the issuance on June 30, 2004, to Stewart Oaten, Permit to Alter a Building (on 2-unit building: replace existing deck, extend about 4'0" and new stairs). APPLICATION NO. 2004/06/30/7682. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 3-0-2 (Commissioners Chin & Saunders absent) to December 1, 2004.

LIST OF PARTIES: Leslie Woodward, appellant.

PUBLIC COMMENT: None.

(11) **APPEAL NO. 04-077**

DEL CURTO PROPERTIES, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	540 Cole Street. Appealing the denial on July 14, 2004, of Permit to Alter a Building (correct the record to show R3/1 unit for rear building; to legalize existing unit). APPLICATION NO. 2004/01/12/3836. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the board voted 3-0-2 (Commissioners Chin & Saunders absent) to reschedule the hearing to October 20, 2004, at the request of the parties.

SPEAKERS: None.

(12) **APPEAL NO. 04-078**

CHRISTIAN ARD & REBECCA MOSHER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	357 Howth Street. Protesting the issuance on July 1, 2004, to Nikolai Massenkoff, Permit to Alter a Building (on single family house: replace and enclose back of house deck; provide siding below deck for storage space). APPLICATION NO. 2003/04/21/2744. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the board voted 3-0-2 (Commissioners Chin & Saunders absent) to reschedule the hearing to September 29, 2004.

LIST OF PARTIES: Christian Ard, co-appellant; Nikolai Massenhoff, permit holder.

PUBLIC COMMENT: None.

(13) **APPEAL NO. 04-082**

HARLAN RICHARDSON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	524 Day Street. Protesting the issuance on June 30, 2004, to Patty Jepson, Permit to Alter a Building (on single-family house: kitchen and entry remodel; replace windows and garage door). APPLICATION NO. 2004/06/30/7701. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the board voted 3-0-2 (Commissioners Chin & Saunders absent) to reschedule the hearing to October 20, 2004.

LIST OF PARTIES: Harlan Richardson, appellant; Patty Jepson, permit holder.

PUBLIC COMMENT: None.

ITEMS (14A) & (14B) SHALL BE HEARD TOGETHER:

(14A) **APPEAL NO. 04-079**

COMMUNITIES FOR A BETTER ENVIRONMENT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1201 Illinois Street. Protesting the issuance on July 6, 2004, to Mirant Potrero LLC, Permit to Alter a Building (on an industrial power building: installation of an aqueous ammonia storage area; removal of existing pavement; partial excavation and removal of existing earth and concrete for new ammonia storage area and sump; excavation of remaining soil within sump area; installation of H-poles for support of containment sump and ammonia storage tank; installation of re-enforced concrete-mat foundation, walls and support piers for the sump and ammonia storage tank; backfilling as required; installation of drain from truck unloading drive to sump; installation of reinforced concrete for diked area slab, walls, footings, equipment pads and truck unloading drive; installation of structural steel for sump cover, stairs and electrical equipment canopy; final paving around disturbed area; tank installation under separate permit; existing building work part of separate permit). APPLICATION NO. 2004/02/19/6692. FOR HEARING TODAY.

(14B) **APPEAL NO. 04-080**

COMMUNITIES FOR A BETTER ENVIRONMENT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1201 Illinois Street. Protesting the issuance on July 6, 2004, to Mirant Potrero LLC, Permit to Alter a Building (on an industrial power building: structural work involved in the alteration of the existing power plant structure for the installation of selective catalatic reduction (SCR) equipment for Nox removal; installation of new steel and catwalks within existing structure and reinforcement of existing steel for the revised flues and new piping, skids and manifold valve stations). APPLICATION NO. 2004/03/08/7971. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the board voted 3-0-2 (Commissioners Chin & Saunders absent) to reschedule the hearing to October 20, 2004, at the request of the parties.

SPEAKERS: None.

There being no further business, President Harrington adjourned the meeting at 5:31 p.m.

Robert H Feld

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, SEPTEMBER 29, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST:

Appeal No(s). 03-197, All City Construction Co. vs. DBI. Subject property at 641 – 27th Avenue. Letter from Joel Yodowitz, attorney for All City Construction Co., appellant(s), requesting rehearing of Appeal No(s). 03-197, decided May 12, 2004. At that time, upon motion by Commissioner Chin, the Board voted 2-3 to overrule DBI's notice of decision with a finding that a demolition took place which exceeded the scope of the permit, but which did not constitute an unlawful demolition, with additional findings as stated into the record by Commissioner Chin. Four votes being required to overturn a departmental action, the motion failed, and the decision by DBI was upheld. **Departmental Action:** Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1.

(4) APPEAL NO. 04-099

RAYMOND DEOCAREZA, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the denial on August 9, 2004, of a request for reinstatement of a Driver of Public Passenger Vehicle for Hire Permit. RESOLUTION NO. 2004-40. FOR HEARING TODAY.

(5) CONSENT ITEMS (DBI PENALTY):

With the consent of the Dept. of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(5A) APPEAL NO. 04-085

DAGMAR & HERWIG COOLINS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	876 Treat Avenue. Appeal for refund of penalty imposed on July 20, 2004, for work done without a permit (on six-unit apartment building: remove two illegal units in garage area; cap all utilities at source; legalize one of the existing ½ bathrooms). APPLICATION NO. 2004/04/28/2492. FOR HEARING TODAY.

(6) APPEAL NO. V03-209

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. **Note:** On March 24, 2004, the Board voted 5-0 to uphold the variance with the following condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature. On May 12, 2004, the Board voted 4-1 to grant the rehearing request by the appellants and to set the rehearing for June 30, 2004. REHEARING HELD & CLOSED ON JULY 28, 2004. FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 04-030**

MARVIN LAU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	714 – 22nd Street. Appealing the denial on April 15, 2004, of a Permit to Alter a Building (on 3-unit residential building: install 12 vinyl windows in kind into existing frames; no structural changes; windows face front and are visible from the street; if applicable, bedroom windows shall comply with § 310.4 for rescue). APPLICATION NO. 2004/04/15/1367. **Note:** On June 9, 2004, the Board voted to uphold the denial of the subject permit. On July 21, 2004, the Board voted to grant the appellant's rehearing request. FOR REHEARING TODAY.

(8) **APPEAL NO. 04-049**

JUAN YANES dba "CHARLES TOWING & MECHANICS", Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1251 Thomas Avenue. Appealing a Police Permit Zoning Referral (P51 Tow Car Firm) dated May 13, 2004, addressed to Juan Yanes, that the proposed use, tow car operator, requires Conditional Use Authorization (CU) in the Restricted Light Industrial (RLI) zoning district per Planning Code § 249.15(b)(2), and that such a use must be conducted within an area completely enclosed by a wall or concealing fence not less than 6 feet high. FOR HEARING TODAY.

(9) **APPEAL NO. 04-050**

MARK MIRAVALLE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	1021 Francisco Street. Appealing the denial on May 28, 2004, of a Permit to Alter a Building (convert 2 residential units to single family unit; dwelling merger). APPLICATION NO. 2003/05/30/5840. FOR HEARING TODAY.

(10) **APPEAL NO. V04-052**

LAURA PERRAULT, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	32 Carson Street. Appealing the partial denial of a Rear Yard Variance (proposal to reconstruct an existing non-complying room at the rear of the property that would include an increase in volume and a new roof form was denied; the proposal to reconstruct the same existing non-complying room at the rear without the increase in volume and without a new roof form was granted; the proposal to construct a new larger deck with a spiral staircase was also granted). VARIANCE CASE NO. 2003.1242V. FOR HEARING TODAY.

(11) **APPEAL NO. 04-078**

CHRISTIAN ARD & REBECCA MOSHER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	357 Howth Street. Protesting the issuance on July 1, 2004, to Nikolai Massenkoff, Permit to Alter a Building (on single family house: replace and enclose back of house deck; provide siding below deck for storage space). APPLICATION NO. 2003/04/21/2744. FOR HEARING TODAY.

(12) **APPEAL NO. 04-084**

SANDRA LUGO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	767 Lisbon Street. Protesting the issuance on July 2, 2004, to Jian Nian Xu, Permit to Alter a Building (on single-family house: remove stove, counter with wet sink and refrigerator including all utility lines to source). APPLICATION NO. 2004/07/02/7916. FOR HEARING TODAY.

(13) **APPEAL NO. 04-086**

FERNANDO EVANGELHO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	362 Cumberland Street. Protesting the issuance on July 7, 2004, to Mark Thomas, Permit to Alter a Building (on single-family house: horizontal extension at rear, vertical addition, and interior remodeling). APPLICATION NO. 2003/06/09/6547S. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Permit holder's, Respondent's or Other Parties' Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 415-575-6880 if you have any questions concerning this agenda.

Date posted: **September 23rd, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	PRESIDENT
HISASHI B. SUGAYA	VICE PRESIDENT
ARNOLD Y.K. CHIN	COMMISSIONER
RANDALL KNOX	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, SEPTEMBER 29, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Arnold Chin (Absent), Commissioner Sabrina Saunders, and Commissioner Randall Knox.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Craig Nikitas, Planning Department (PD); Leo McFadden, Senior Building Inspector, Dept. of Building Inspection (SBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) **PUBLIC COMMENT**:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS**:

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(3) **ADDENDUM ITEMS**:

(3A) **REHEARING REQUEST:**

Appeal No(s). 03-197, All City Construction Co. vs. DBI. Subject property at 641 – 27th Avenue. Letter from Joel Yodowitz, attorney for All City Construction Co., appellant(s), requesting rehearing of Appeal No(s). 03-197, decided May 12, 2004. At that time, upon motion by Commissioner Chin, the Board voted 2-3 to overrule DBI's notice of decision with a finding that a demolition took place which exceeded the scope of the permit, but which did not constitute an unlawful demolition, with additional findings as stated into the record by Commissioner Chin. Four votes being required to overturn a departmental action, the motion failed, and the decision by DBI was upheld. **Departmental Action:** Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1.

ACTION: Upon motion by Commissioner Knox, the Board voted 3-0-2 (Commissioners Chin and Saunders absent) to reschedule the hearing to November 10, 2004 at the request of the parties.

PUBLIC COMMENT: None.

(4) APPEAL NO. 04-099

RAYMOND DEOCAREZA, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the denial on August 9, 2004, of a request for reinstatement of a Driver of Public Passenger Vehicle for Hire Permit. RESOLUTION NO. 2004-40. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Knox, the Board voted 4-0-1 (Commissioner Chin absent) to overturn the denial & impose a probationary period on this A-card to end with his criminal court probation on May 8, 2006.

LIST OF PARTIES: Sherry Gendelman, attorney for appellant; Sgt. Vince Simpson, SFPD; Jimi Harris, TC.

PUBLIC COMMENT: None.

(5) CONSENT ITEMS (DBI PENALTY):

With the consent of the Dept. of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(5A) APPEAL NO. 04-085

DAGMAR & HERWIG COOLINS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	876 Treat Avenue. Appeal for refund of penalty imposed on July 20, 2004, for work done without a permit (on six-unit apartment building: remove two illegal units in garage area; cap all utilities at source; legalize one of the existing ½ bathrooms). APPLICATION NO. 2004/04/28/2492. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to reduce the penalty to 2 times regular fee.

LIST OF PARTIES: Leo McFadden, SBI DBI.

PUBLIC COMMENT: None.

(6) APPEAL NO. V03-209

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on Dec. 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. **Note:** On March 24, 2004, the Board voted 5-0 to uphold the variance with the following condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature. On May 12, 2004, the Board voted 4-1 to grant the rehearing request by the appellants and to set the rehearing for June 30, 2004. REHEARING HELD & CLOSED ON JULY 28, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Harrington, the Board voted 3-0-2 (Commissioners Chin and Saunders absent) to reschedule the hearing to October 20, 2004.

LIST OF PARTIES: Catherine Ferreira, appellant; Jay Capela, co-variance holder.

PUBLIC COMMENT: None.

(7) APPEAL NO. 04-030

MARVIN LAU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	714 – 22nd Street. Appealing the denial on April 15, 2004, of a Permit to Alter a Building (on 3-unit residential building: install 12 vinyl windows in kind into existing frames; no structural changes; windows face front and are visible from the street; if applicable, bedroom windows shall comply with § 310.4 for rescue). APPLICATION NO. 2004/04/15/1367. **Note:** On June 9, 2004, the Board voted to uphold the denial of the subject permit. On July 21, 2004, the Board voted to grant the appellant's rehearing request. FOR REHEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 3-0-2 (Commissioner Chin and Saunders absent) to reschedule the hearing to November 10, 2004.

LIST OF PARTIES: Alex Koustas, agent for appellant.

PUBLIC COMMENT: None.

(8) **APPEAL NO. 04-049**

JUAN YANES dba “CHARLES TOWING & MECHANICS”, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1251 Thomas Avenue. Appealing a Police Permit Zoning Referral (P51 Tow Car Firm) dated May 13, 2004, addressed to Juan Yanes, that the proposed use, tow car operator, requires Conditional Use Authorization (CU) in the Restricted Light Industrial (RLI) zoning district per Planning Code § 249.15(b)(2), and that such a use must be conducted within an area completely enclosed by a wall or concealing fence not less than 6 feet high. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to continue to November 10, 2004 with an update by the Planning Dept. as to the status of appellant’s conditional use application.

LIST OF PARTIES: Craig Nikitas, Planning Dept.; Juan Yanes, appellant.

PUBLIC COMMENT: None.

(9) **APPEAL NO. 04-050**

MARK MIRAVALLE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	1021 Francisco Street. Appealing the denial on May 28, 2004, of a Permit to Alter a Building (convert 2 residential units to single family unit; dwelling merger). APPLICATION NO. 2003/05/30/5840. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to uphold the denial.

LIST OF PARTIES: Craig Nikitas, Planning Dept.; Appellant did not appear.

PUBLIC COMMENT: None.

(10) APPEAL NO. V04-052

LAURA PERRAULT, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	32 Carson Street. Appealing the partial denial of a Rear Yard Variance (proposal to reconstruct an existing non-complying room at the rear of the property that would include an increase in volume and a new roof form was denied; the proposal to reconstruct the same existing non-complying room at the rear without the increase in volume and without a new roof form was granted; the proposal to construct a new larger deck with a spiral staircase was also granted). VARIANCE CASE NO. 2003.1242V. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 3-0-2 (Commissioners Chin and Saunders absent) to reschedule the hearing to October 20, 2004 at the request of the parties.

SPEAKERS: None.

(11) APPEAL NO. 04-078

CHRISTIAN ARD & REBECCA MOSHER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	357 Howth Street. Protesting the issuance on July 1, 2004, to Nikolai Massenkoff, Permit to Alter a Building (on single family house: replace and enclose back of house deck; provide siding below deck for storage space). APPLICATION NO. 2003/04/21/2744. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to uphold the permit with conditions.

LIST OF PARTIES: Christian Ard, appellant; Nikolai Massenkoff, permit holder; Leo McFadden, SBI DBI; Craig Nikitas, Planning Dept.

(12) APPEAL NO. 04-084

SANDRA LUGO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	767 Lisbon Street. Protesting the issuance on July 2, 2004, to Jian Nian Xu, Permit to Alter a Building (on single-family house: remove stove, counter with wet sink and refrigerator including all utility lines to source). APPLICATION NO. 2004/07/02/7916. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 3-0-2 (Commissioner's Chin and Saunders absent) to reschedule the hearing to October 20, 2004 at the request of the parties.

SPEAKERS: None.

(13) APPEAL NO. 04-086

FERNANDO EVANGELHO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	362 Cumberland Street. Protesting the issuance on July 7, 2004, to Mark Thomas, Permit to Alter a Building (on single-family house: horizontal extension at rear, vertical addition, and interior remodeling). APPLICATION NO. 2003/06/09/6547S. FOR HEARING TODAY.

ACTION: None. Appeal withdrawn.

There being no further business, President Harrington adjourned the meeting at 6:27 p.m.

Robert H Feldman

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

Board of Appeals

October 6, 2004 (Cancelled Meeting)

PUBLIC NOTICE

The Board of Appeals has **CANCELLED** the meeting of October 6th, 2004. The next regular meeting is scheduled for **Wednesday, October 13th, 2004, City Hall, Room 416, 5:00 p**.m., One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any other appeal matter.

FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

Date Posted: **Sept. 30th, 2004**

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, OCTOBER 13, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS:

(3A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 22 Alta Street. Letter from DBI Director dated July 28, 2004. Last day to appeal was August 12, 2004. Jurisdiction request received on Sept. 24, 2004. Letter from Angele Solano, attorney for Robert Mahoney, requestor(s), asking that the Board take jurisdiction over a letter by the Director of the Dept. of Building Inspection which states that Building Permit Application No(s). 9710066S has expired.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 327 – 20th Avenue. Permit issued on Aug. 13, 2004. Last day to appeal was Aug. 30, 2004. Jurisdiction request received on Sept. 7, 2004. Letter from Kenneth Lau requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/08/13/1579 for the purpose of filing a penalty appeal.

(4) **APPEAL NO. 03-154**

ULYSSES NAPURI dba “LAST STOP SOUVENIR”, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	498 Beach Street. Appealing the denial on May 5, 2003, of a Sidewalk Display Merchandise Permit. ORDER NO. 174,098. JURISDICTION GRANTED ON SEPT. 17, 2003. PUBLIC HEARING HELD & CLOSED ON DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. 04-035**

CRYSTAL LEI, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	337 – 28th Avenue. Appealing the suspension on April 23, 2004, of Building Permit Application No(s). 2003/04/15/2287, 2003/07/15/9528, & 2003/05/27/5515. Reason(s) for suspension: the scope of work and building information described on the building permit applications and approved plans does not reflect the actual condition and legal use of the building. PUBLIC HEARING HELD ON AUGUST 18, 2004. FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 04-087**

HOWARD KOENIG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4386 – 26th Street. Protesting the issuance on July 12, 2004, to Paul Weber, Permit to Alter a Building (on single-family house: 3rd story addition and remodel of existing house). APPLICATION NO. 2002/11/12/1134S. FOR HEARING TODAY.

(7) **APPEAL NO. 04-090**

LILY POON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1663 – 32nd Avenue. Protesting the issuance on July 13, 2004, to Mariya Kurgatnikov, Permit to Alter a Building (on single-family house: add two bedrooms, two bathrooms and relocate utility, laundry on ground floor per plans; add new stair on second floor at rear). APPLICATION NO. 2004/07/13/8700. FOR HEARING TODAY.

(8) **APPEAL NO. 04-091**

ALAN MACREA, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1618 – 33rd Avenue. Protesting the issuance on July 14, 2004, to Steven Tam, Permit to Alter a Building (on single-family house: revision to Building Permit Application No(s). 2003/05/21/5177; remove and relocate one full bath and replace with ½ bath at garage level and add a new storage room; add a skylight with vent at light court; remove existing kitchen counter, cabinets and sink, and replace with new at 2nd floor; remove dry rot balcony (decorative) at front and replace with metal decorative balcony; relocate master shower; correction for NOV No(s). 200344353). APPLICATION NO. 2004/06/17/6737. FOR HEARING TODAY.

(9) **APPEAL NO. 04-093**

MIAO CHANG LI, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	2000 – 46th Avenue. Appealing the denial on July 13, 2004, of Permit to Alter a Building (on single-family house: new horizontal addition at rear; exercise room, bedroom and full bathroom at ground floor; two bedrooms, full bathroom and study area at second floor). APPLICATION NO. 2003/11/17/0386S. FOR HEARING TODAY.

(10) **APPEAL NO. 04-095**

STEPHEN BACHMAN dba VINFOLIO LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1890 Bryant Street. Appealing a determination dated July 22, 2004, addressed to Lynne Carmichael at Hinman & Carmichael LLP, that Planning Code §§ 781.8 & 781.8(a)(2) prohibit the approval of a Type 20 Liquor License (off-sale beer and wine) at the subject property, which is located in the Mission Alcoholic Beverage Special Use Sub-district. FOR HEARING TODAY.

ITEMS (11A) & (11B) SHALL BE HEARD TOGETHER:

(11A) **APPEAL NO. 04-094**

OTTO WIEGAND, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4001 Mission Street. Protesting the issuance on July 16, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7097S. FOR HEARING TODAY.

(11B) **APPEAL NO. 04-096**

SHAWN LEONARD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4001 Mission Street. Protesting the issuance on July 16, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7097S. FOR HEARING TODAY.

ITEMS (12A) & (12B) SHALL BE HEARD TOGETHER:

(12A) **APPEAL NO. 04-097**

BRENDAN LALOR, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	8 Murray Street. Protesting the issuance on July 29, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7104S. FOR HEARING TODAY.

(12B) **APPEAL NO. 04-102**

OTTO WIEGAND, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	8 Murray Street. Protesting the issuance on July 29, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7104S. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Permit holder's, Respondent's or Other Parties' Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 415-575-6880 if you have any questions concerning this agenda.

Date posted: **October 6th, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	PRESIDENT
HISASHI B. SUGAYA	VICE PRESIDENT
ARNOLD Y.K. CHIN	COMMISSIONER
RANDALL KNOX	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, OCTOBER 13, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Sabrina Saunders, and Commissioner Randall Knox.

ABSENT: Commissioner Arnold Chin.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Jonas Ionin, Planning Department (PD); Leo McFadden, Chief Building Inspector, Dept. of Building Inspection (SBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

SPEAKERS: None.

DOCUMENTS DEPT.

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(3) ADDENDUM ITEMS:

(3A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 22 Alta Street. Letter from DBI Director dated July 28, 2004. Last day to appeal was August 12, 2004. Jurisdiction request received on Sept. 24, 2004. Letter from Angele Solano, attorney for Robert Mahoney, requestor(s), asking that the Board take jurisdiction over a letter by the Director of the Dept. of Building Inspection which states that Building Permit Application No(s). 9710066S has expired.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to grant jurisdiction.

LIST OF PARTIES: Angela Solano, attorney for requestor; Leo McFadden, DBI.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 327 – 20th Avenue. Permit issued on Aug. 13, 2004. Last day to appeal was Aug. 30, 2004. Jurisdiction request received on Sept. 7, 2004. Letter from Kenneth Lau requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/08/13/1579 for the purpose of filing a penalty appeal.

ACTION: Upon motion by Commissioner Knox, the Board voted 4-0-1 (Commissioner Chin absent) to grant jurisdiction.

LIST OF PARTIES: James Lau, agent for requestor; Leo McFadden, DBI.

(4) APPEAL NO. 03-154

ULYSSES NAPURI dba "LAST STOP SOUVENIR", Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	498 Beach Street. Appealing the denial on May 5, 2003, of a Sidewalk Display Merchandise Permit. ORDER NO. 174,098. JURISDICTION GRANTED ON SEPT. 17, 2003. PUBLIC HEARING HELD & CLOSED ON DEC. 10, 2003. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-0-1 (Commissioner Chin absent) to continue the hearing to November 17, 2004.

LIST OF PARTIES: Maria Napuri, wife of Appellant; Jonas Ionin, PD.

(5) APPEAL NO. 04-035

CRYSTAL LEI, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	337 – 28th Avenue. Appealing the suspension on April 23, 2004, of Building Permit Application No(s). 2003/04/15/2287, 2003/07/15/9528, & 2003/05/27/5515. Reason(s) for suspension: the scope of work and building information described on the building permit applications and approved plans does not reflect the actual condition and legal use of the building. PUBLIC HEARING HELD ON AUGUST 18, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to continue the hearing to November 10, 2004, with DBI to conduct a site visit.

LIST OF PARTIES: Archie Clarizio, attorney for appellant; Leo McFadden, DBI; Mike Rubin, for appellant.

(6) **APPEAL NO. 04-087**

HOWARD KOENIG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4386 – 26th Street. Protesting the issuance on July 12, 2004, to Paul Weber, Permit to Alter a Building (on single-family house: 3rd story addition and remodel of existing house). APPLICATION NO. 2002/11/12/1134S. FOR HEARING TODAY.

ACTION: (1) Upon motion by Commissioner Saunders, the Board voted 2-2-1 (Commissioner Chin absent) to reschedule the matter; motion failed and the hearing went forward as scheduled. (2) Upon motion by Vice President Sugaya, the Board voted 4-0-1 to uphold the permit with adoption of the Planning Commission's DR findings.

LIST OF PARTIES: Howard Koening, appellant; Yeonwha Sohn-Weber, wife of Permit Holder; Jonas Ionin, PD.

(7) **APPEAL NO. 04-090**

LILY POON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1663 – 32nd Avenue. Protesting the issuance on July 13, 2004, to Mariya Kurgatnikov, Permit to Alter a Building (on single-family house: add two bedrooms, two bathrooms and relocate utility, laundry on ground floor per plans; add new stair on second floor at rear). APPLICATION NO. 2004/07/13/8700. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to uphold the subject permit.

LIST OF PARTIES: David Tong, agent for appellant; Jeremy Paul, agent for permit holder.

(8) **APPEAL NO. 04-091**

ALAN MACREA, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1618 – 33rd Avenue. Protesting the issuance on July 14, 2004, to Steven Tam, Permit to Alter a Building (on single-family house: revision to Building Permit Application No(s). 2003/05/21/5177; remove and relocate one full bath and replace with ½ bath at garage level and add a new storage room; add a skylight with vent at light court; remove existing kitchen counter, cabinets and sink, and replace with new at 2nd floor; remove dry rot balcony (decorative) at front and replace with metal decorative balcony; relocate master shower; correction for NOV No(s). 200344353). APPLICATION NO. 2004/06/17/6737. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 to continue the hearing to November 17, 2004 with DBI to conduct a site visit & report back to the Board.

LIST OF PARTIES: Alan Macrea, appellant; Steven Tam, Permit Holder; Catherine Chu, aunt of appellant; Leo McFadden, DBI.

(9) **APPEAL NO. 04-093**

MIAO CHANG LI, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	2000 – 46th Avenue. Appealing the denial on July 13, 2004, of Permit to Alter a Building (on single-family house: new horizontal addition at rear; exercise room, bedroom and full bathroom at ground floor; two bedrooms, full bathroom and study area at second floor). APPLICATION NO. 2003/11/17/0386S. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to overrule the denial for the purpose of reinstating the permit (so that revised plans can be submitted which will then trigger 311 notice & a subsequent DR hearing).

LIST OF PARTIES: Jonas Ionin, PD; Tony Fong, agent for appellant.

(10) **APPEAL NO. 04-095**

STEPHEN BACHMAN dba VINFOLIO LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1890 Bryant Street. Appealing a determination dated July 22, 2004, addressed to Lynne Carmichael at Hinman & Carmichael LLP, that Planning Code §§ 781.8 & 781.8(a)(2) prohibit the approval of a Type 20 Liquor License (off-sale beer and wine) at the subject property, which is located in the Mission Alcoholic Beverage Special Use Sub-district. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 to overrule the determination with a finding that the ABC License Types 17 & 20 in combination do not violate the regulations of the Mission Alcoholic Beverage Special-Use District.

LIST OF PARTIES: Jonas Ionin, PD; Lynne Carmichael, attorney for appellant; Stephen Bachman, appellant.

ITEMS (11A) & (11B) SHALL BE HEARD TOGETHER:

(11A) **APPEAL NO. 04-094**

OTTO WIEGAND, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4001 Mission Street. Protesting the issuance on July 16, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7097S. FOR HEARING TODAY.

(11B) **APPEAL NO. 04-096**

SHAWN LEONARD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4001 Mission Street. Protesting the issuance on July 16, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7097S. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Suagya, the Board voted 4-0-1 (Commissioner Chin absent) to reschedule to November 10, 2004.

ITEMS (12A) & (12B) SHALL BE HEARD TOGETHER:

(12A) **APPEAL NO. 04-097**

BRENDAN LALOR, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	8 Murray Street. Protesting the issuance on July 29, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7104S. FOR HEARING TODAY.

(12B) **APPEAL NO. 04-102**

OTTO WIEGAND, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	8 Murray Street. Protesting the issuance on July 29, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7104S. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to reschedule the matter to November 10, 2004.

There being no further business, President Harrington adjourned the meeting at 10:30 p.m.

Robert H Feldman

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, OCTOBER 20, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

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(3) ADDENDUM ITEMS:

(3A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 49 Dorland Street. Permit issued on Aug. 23, 2004. Last day to appeal was Sept. 7, 2004. Jurisdiction request received on Sept. 16, 2004. Letter from Raquel Fox, attorney for Linda Castillo et al., requestor(s), asking that the Board take jurisdiction over B.P.A. No(s). 2004/08/23/2295. Permit Holder(s): John Conomos. Project: on 3-unit residential building, remodel kitchens in units 1, 2 and 3; remodel existing bathrooms in units 1, 2 and 3; add bathroom to unit 3; add bedroom and bathroom to unit 2; sprinklers under separate permit.

(4) APPEAL NO. V03-209

10-18-04 A10:40 RCVD

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on December 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. **Note:** On March 24, 2004, the Board voted 5-0 to uphold the variance with condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature. On May 12, 2004, the Board voted 4-1 to grant the rehearing request by the appellants and to set the rehearing for June 30, 2004. REHEARING HELD & CLOSED ON JULY 28, 2004. FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. 04-066**

JAMIE YUEN, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on June 10, 2004, of medallion no(s). 1100. RESOLUTION NO. 2004-31. FOR HEARING TODAY.

(6) **APPEAL NO. 04-073**

DIANE COHEN, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on June 18, 2004, of medallion no(s). 1147. RESOLUTION NO. 2004-37. FOR HEARING TODAY.

(7) **APPEAL NO. V04-052**

LAURA PERRAULT, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	32 Carson Street. Appealing the partial denial of a Rear Yard Variance (proposal to reconstruct an existing non-complying room at the rear of the property that would include an increase in volume and a new roof form was denied; the proposal to reconstruct the same existing non-complying room at the rear without the increase in volume and without a new roof form was granted; the proposal to construct a new larger deck with a spiral staircase was also granted). VARIANCE CASE NO. 2003.1242V. FOR HEARING TODAY.

ITEMS (8A) & (8B) SHALL BE HEARD TOGETHER:

(8A) **APPEAL NO. 04-074**

MICHAEL RABBITT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	141 Willard Street North. Appealing the denial on July 8, 2004 of Permit to Demolish a Building (2-unit building with 1,073sf of ground floor area). APPLICATION NO. 2003/05/22/5283. FOR HEARING TODAY.

(8B) **APPEAL NO. 04-075**

MICHAEL RABBITT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	141 Willard Street North. Appealing the denial on July 8, 2004 of Permit to Erect a Building (4-story, 2-unit building with 1,862sf of ground floor area). APPLICATION NO. 2003/05/22/5280S. FOR HEARING TODAY.

(9) **APPEAL NO. 04-077**

DEL CURTO PROPERTIES, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	540 Cole Street. Appealing the denial on July 14, 2004, of Permit to Alter a Building (correct the record to show R3/1 unit for rear building; to legalize existing unit). APPLICATION NO. 2004/01/12/3836. FOR HEARING TODAY.

(10) **APPEAL NO. 04-082**

HARLAN RICHARDSON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	524 Day Street. Protesting the issuance on June 30, 2004, to Patty Jepson, Permit to Alter a Building (on single-family house: kitchen and entry remodel; replace windows and garage door). APPLICATION NO. 2004/06/30/7701. FOR HEARING TODAY.

(11) **APPEAL NO. 04-084**

SANDRA LUGO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	767 Lisbon Street. Protesting the issuance on July 2, 2004, to Jian Nian Xu, Permit to Alter a Building (on single-family house: remove stove, counter with wet sink and refrigerator including all utility lines to source). APPLICATION NO. 2004/07/02/7916. FOR HEARING TODAY.

(12) **APPEAL NO. 04-098**

JOHN JOSEPH SCHENONE TRUST, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1907 Egbert Avenue. Protesting the issuance on August 2, 2004, to Rodrigo Galimba, Permit to Erect a Building (3-story, single-family house with 1,575sf of ground floor area). APPLICATION NO. 2003/04/11/2024S. FOR HEARING TODAY.

(13) **APPEAL NO. 04-100**

GEORGE & JULIE VAIL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	163 Rae Avenue. Protesting the issuance on July 27, 2004, to Yuen Yuen Kwok, Permit to Erect a Building (3-story single family house with 1,900sf of ground floor area). APPLICATION NO. 2003/12/08/1787S. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Permit holder's, Respondent's or Other Parties' Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 415-575-6880 if you have any questions concerning this agenda.

Date posted: **October 14th, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
ARNOLD Y.K. CHIN	**COMMISSIONER**
RANDALL KNOX	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, OCTOBER 20, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Sabrina Saunders, and Commissioner Randall Knox.

ABSENT: Commissioner Arnold Chin

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Craig Nikitas, Planning Department (PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

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(3) ADDENDUM ITEMS:

(3A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL :

Subject property at 49 Dorland Street. Permit issued on Aug. 23, 2004. Last day to appeal was Sept. 7, 2004. Jurisdiction request received on Sept. 16, 2004. Letter from Raquel Fox, attorney for Linda Castillo et al., requestor(s), asking that the Board take jurisdiction over B.P.A. No(s). 2004/08/23/2295. Permit Holder(s): John Conomos. Project: on 3-unit residential building, remodel kitchens in units 1, 2 and 3; remodel existing bathrooms in units 1, 2 and 3; add bathroom to unit 3; add bedroom and bathroom to unit 2; sprinklers under separate permit.

ACTION: (1) Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to deny the rescheduling request. (2) Upon motion by Commissioner Saunders, the Board voted 4-0-1 (Commissioner Chin absent) to grant jurisdiction.

LIST OF PARTIES: Ariel Gershon, agent for requestor's; Steven Williams, attorney for Permit Holder.

(4) APPEAL NO. V03-209

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on December 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. **Note:** On March 24, 2004, the Board voted 5-0 to uphold the variance with condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature. On May 12, 2004, the Board voted 4-1 to grant the rehearing request by the appellants and to set the rehearing for June 30, 2004. REHEARING HELD & CLOSED ON JULY 28, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 to continue the hearing to November 17, 2004.

LIST OF PARTIES: Lawrence Kornfield, DBI; Catherine Ferreira, co-appellant; Jay Capela, co-variance holder.

(5) APPEAL NO. 04-066

JAMIE YUEN, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on June 10, 2004, of medallion no(s). 1100. RESOLUTION NO. 2004-31. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 3-0-2 (Commissioners Chin & Saunders absent) to reschedule the hearing to January 26, 2005 at the request of the parties.

(6) APPEAL NO. 04-073

DIANE COHEN, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the revocation on June 18, 2004, of medallion no(s). 1147. RESOLUTION NO. 2004-37. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 3-0-2 (Commissioners Chin & Saunders absent) to reschedule the hearing to January 26, 2005 at the request of the parties.

(7) **APPEAL NO. V04-052**

LAURA PERRAULT, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	32 Carson Street. Appealing the partial denial of a Rear Yard Variance (proposal to reconstruct an existing non-complying room at the rear of the property that would include an increase in volume and a new roof form was denied; the proposal to reconstruct the same existing non-complying room at the rear without the increase in volume and without a new roof form was granted; the proposal to construct a new larger deck with a spiral staircase was also granted). VARIANCE CASE NO. 2003.1242V. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Knox, the Board voted 3-0-2 (Commissioners Chin & Saunders absent) to reschedule the hearing to November 17, 2004 at the request of the parties.

ITEMS (8A) & (8B) SHALL BE HEARD TOGETHER:

(8A) **APPEAL NO. 04-074**

MICHAEL RABBITT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	141 Willard Street North. Appealing the denial on July 8, 2004 of Permit to Demolish a Building (2-unit building with 1,073sf of ground floor area). APPLICATION NO. 2003/05/22/5283. FOR HEARING TODAY.

(8B) **APPEAL NO. 04-075**

MICHAEL RABBITT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	141 Willard Street North. Appealing the denial on July 8, 2004 of Permit to Erect a Building (4-story, 2-unit building with 1,862sf of ground floor area). APPLICATION NO. 2003/05/22/5280S. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 3-0-2 (Commissioners Chin & Saunders absent) to reschedule the hearing to December 1, 2004 at the request of the parties.

(9) **APPEAL NO. 04-077**

DEL CURTO PROPERTIES, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	540 Cole Street. Appealing the denial on July 14, 2004, of Permit to Alter a Building (correct the record to show R3/1 unit for rear building; to legalize existing unit). APPLICATION NO. 2004/01/12/3836. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 3-0-2 (Commissioners Chin & Saunders absent) to reschedule the hearing to December 8, 2004 at the request of the parties.

(10) **APPEAL NO. 04-082**

HARLAN RICHARDSON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	524 Day Street. Protesting the issuance on June 30, 2004, to Patty Jepson, Permit to Alter a Building (on single-family house: kitchen and entry remodel; replace windows and garage door). APPLICATION NO. 2004/06/30/7701. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to uphold the permit on the condition that the front entry landing be moved 3'2" away from the property line.

LIST OF PARTIES: Harlan Richardson, appellant; Patty Jepson, permit holder; Craig Nikitas, PD; Laurence Kornfield, DBI.

(11) **APPEAL NO. 04-084**

SANDRA LUGO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	767 Lisbon Street. Protesting the issuance on July 2, 2004, to Jian Nian Xu, Permit to Alter a Building (on single-family house: remove stove, counter with wet sink and refrigerator including all utility lines to source). APPLICATION NO. 2004/07/02/7916. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Knox, the Board voted 3-0-2 (Commissioners Chin and Saunders absent) to reschedule the hearing to November 17, 2004 at the request of the parties.

(12) **APPEAL NO. 04-098**

JOHN JOSEPH SCHENONE TRUST, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1907 Egbert Avenue. Protesting the issuance on August 2, 2004, to Rodrigo Galimba, Permit to Erect a Building (3-story, single-family house with 1,575sf of ground floor area). APPLICATION NO. 2003/04/11/2024S. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to reschedule to November 17, 2004 at the request of the appellant.

LIST OF PARTIES: Rodrigo Galimba, Permit Holder.

(13) **APPEAL NO. 04-100**

GEORGE & JULIE VAIL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	163 Rae Avenue. Protesting the issuance on July 27, 2004, to Yuen Yuen Kwok, Permit to Erect a Building (3-story single family house with 1,900sf of ground floor area). APPLICATION NO. 2003/12/08/1787S. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Chin absent) to continue the hearing to December 1, 2004 with the public hearing closed.

LIST OF PARTIES: George Vail, co-appellant; Alfred Lee, agent for permit holder; CJ Higley, attorney for permit holder; Craig Nikitas, PD.

There being no further business, President Harrington adjourned the meeting at 6:33 p.m.

Robert H Feldman

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

Board of Appeals

October 27, 2004 (No Meeting)

PUBLIC NOTICE

The Board of Appeals has not scheduled any meetings for October 27th, 2004 & November 3rd, 2004. The next regular meeting is scheduled for **Wednesday, November 10th, 2004, City Hall, Room 416, 5:00 p.m.,** One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any other appeal matter.

FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

Date Posted: **October 21st, 2004**

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, NOVEMBER 10, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

11-05-04A11:37 RCVD

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST:

Subject property at 641 – 27th Avenue. Appeal No(s). 03-197, All City Construction Co. vs. DBI. Letter from Joel Yodowitz, attorney for All City Construction Co., appellant(s), requesting rehearing of Appeal No(s). 03-197, decided May 12, 2004. At that time, upon motion by Commissioner Chin, the Board voted 2-3 to overrule DBI's notice of decision with a finding that a demolition took place which exceeded the scope of the permit, but which did not constitute an unlawful demolition, with additional findings as stated into the record by Commissioner Chin. Four votes being required to overturn a departmental action, the motion failed, and the decision by DBI was upheld. **Note:** Companion case, 03-199, Woo vs. DBI, was decided concurrently with 03-197. Howard & Susie Woo, the appellants in 03-199 and the subject property owners, however, did not file a request for rehearing. **Departmental Action:** Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1.

(3B) REHEARING REQUEST:

Subject property at 357 Howth Street. Appeal No(s). 04-078, Ard & Mosher vs. DBI, PDA. Letter from Rebecca Mosher, co-appellant(s), requesting rehearing of Appeal No(s). 04-078, decided on September 29, 2004. At that time, upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to uphold the subject permit with the following condition(s): a) that the fence be included in the plans; and b) that the Dept. of Building Inspection conduct a site visit in order to verify that the construction of the current addition does not exceed the plan dimensions (10 feet).

(4) **APPEAL NO. 04-035**

CRYSTAL LEI, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	337 – 28th Avenue. Appealing the suspension on April 23, 2004, of Building Permit Application No(s). 2003/04/15/2287, 2003/07/15/9528, & 2003/05/27/5515. Reason(s) for suspension: the scope of work and building information described on the building permit applications and approved plans does not reflect the actual condition and legal use of the building. PUBLIC HEARING HELD ON 8/18/2004. FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. 04-049**

JUAN YANES dba "CHARLES TOWING & MECHANICS", Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1251 Thomas Avenue. Appealing a Police Permit Zoning Referral (P51 Tow Car Firm) dated May 13, 2004, addressed to Juan Yanes, that the proposed use, tow car operator, requires Conditional Use Authorization (CU) in the Restricted Light Industrial (RLI) zoning district per Planning Code § 249.15(b)(2), and that such a use must be conducted within an area completely enclosed by a wall or concealing fence not less than 6 feet high. PUBLIC HEARING HELD ON 9/29/2004. FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 04-030**

MARVIN LAU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	714 – 22nd Street. Appealing the denial on April 15, 2004, of a Permit to Alter a Building (on 3-unit residential building: install 12 vinyl windows in kind into existing frames; no structural changes; windows face front and are visible from the street; if applicable, bedroom windows shall comply with § 310.4 for rescue). APPLICATION NO. 2004/04/15/1367. **Note:** On June 9, 2004, the Board voted to uphold the denial of the subject permit. On July 21, 2004, the Board voted to grant the appellant's rehearing request. FOR REHEARING TODAY.

(7) **APPEAL NO. 03-087**

BILL & LUBA GOWER, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2250 Jackson Street. Appealing a determination dated May 20, 2003, addressed to Gary Bell, that the legal use of the subject property is a 5-unit apartment building based on available prior building permits and land use records. FOR HEARING TODAY.

(8) **APPEAL NO. 04-081**

LANE LOUIE, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	950 Grant Avenue. Protesting the issuance on July 2, 2004, to Elaine Chiu dba "Grand Palace", Sidewalk Display Merchandise Permit. PERMIT NO. 04D-265. FOR HEARING TODAY.

(9) **APPEAL NO. 04-037**

ANTHONY DUMONT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION Respondent	155 Westwood Drive. Appealing a Notice of Decision by Dept. of Building Inspection Director Frank Chiu, dated April 19, 2004, revoking Building Permit Application No(s). 2003/05/19/4954, 2003/08/05/1263, and 2003/08/21/2731. Reason(s) for revocation: construction at the subject property exceeded the scope of the first two permits; and the third permit was issued in error due to false information supplied by the permit applicant. FOR HEARING TODAY.

(10) **APPEAL NO. 04-070**

RUSSIAN HILL COMMUNITY ASSOCIATION, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPARTMENT APROVAL	1170-1180 Green Street. Protesting the issuance on June 17, 2004, to Jeffrey Horowitz, Permit to Alter a Building (on 6-unit apartment building: expansion of building by addition of partial 3rd floor, renovation of 2nd floor, and conversion of some crawl space to automobile parking). APPLICATION NO. 9925728S. FOR HEARING TODAY.

ITEMS (11A) & (11B) SHALL BE HEARD TOGETHER:

(11A) **APPEAL NO. 04-094**

OTTO WIEGAND, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4001 Mission Street. Protesting the issuance on July 16, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7097S. FOR HEARING TODAY.

(11B) **APPEAL NO. 04-096**

SHAWN LEONARD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4001 Mission Street. Protesting the issuance on July 16, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7097S. FOR HEARING TODAY.

ITEMS (12A) & (12B) SHALL BE HEARD TOGETHER:

(12A) **APPEAL NO. 04-097**

BRENDAN LALOR, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	8 Murray Street. Protesting the issuance on July 29, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7104S. FOR HEARING TODAY.

(12B) **APPEAL NO. 04-102**

OTTO WIEGAND, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	8 Murray Street. Protesting the issuance on July 29, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7104S. FOR HEARING TODAY.

(13) **APPEAL NO. 04-105**

MITCHELL SCHOENBRUN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1401-1409 Castro Street. Protesting the issuance on August 2, 2004, to Isa Muhawieh, Permit to Alter a Building (on apartment building with commercial: storage room into laundry room at ground floor). APPLICATION NO. 2004/08/02/0401. FOR HEARING TODAY.

ITEMS (14A) & (14B) SHALL BE HEARD TOGETHER:

(14A) **APPEAL NO. 04-106**

DEE & JUDY LEMMON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1283 Portola Drive. Protesting the issuance on August 2, 2004, to Yu Hua Chen (New Subject Property Owner Edmund Ko), Permit to Erect a Building (2-story single family house with 1,434sf of ground floor area). APPLICATION NO. 2002/07/17/1685S. FOR HEARING TODAY.

(14B) **APPEAL NO. 04-107**

JOHN & JACQUELINE KING, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1283 Portola Drive. Protesting the issuance on August 2, 2004, to Yu Hua Chen (New Subject Property Owner Edmund Ko), Permit to Erect a Building (2-story single family house with 1,434sf of ground floor area). APPLICATION NO. 2002/07/17/1685S. FOR HEARING TODAY.

ITEMS (15A), (15B) & (15C) SHALL BE HEARD TOGETHER:

(15A) **APPEAL NO. 04-108**

JEFFREY LIVINGSTON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	129 Westwood Drive. Protesting the issuance on August 3, 2004, to John Zhou, Permit to Alter a Building (on single-family house: change existing 2nd floor study room and bedroom to storage per plan; under Building Permit Application No(s). 2004/06/02/5323). APPLICATION NO. 2004/08/03/0421. FOR HEARING TODAY.

(15B) **APPEAL NO. 04-109**

JEFFREY LIVINGSTON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	129 Westwood Drive. Protesting the issuance on August 3, 2004, to John Zhou, Permit to Alter a Building (on single-family house: repair, roofing, reroofing; replace interior lath and plaster with GYPBD; repair windows; under Building Permit Application No(s). 2004/06/02/5323). APPLICATION NO. 2004/07/01/7873. FOR HEARING TODAY.

(15C) **APPEAL NO. 04-124**

JEFFREY LIVINGSTON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	129 Westwood Drive. Protesting the issuance on June 2, 2004, to John Zhou, Permit to Alter a Building (on single-family house: add exercise room, family room, laundry and full bath at basement; relocate bathroom fixtures and walls; excavate basement floor and reinforce walls per plans). APPLICATION NO. 2004/06/02/5323. JURISDICTION GRANTED 9/8/2004. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Permit holder's, Respondent's or Other Parties' Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 415-575-6880 if you have any questions concerning this agenda.

Date posted: **October 22nd, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
FRANK FUNG	**COMMISSIONER**
RANDALL KNOX	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, NOVEMBER 10, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Frank Fung, Commissioner Sabrina Saunders, and Commissioner Randall Knox.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Craig Nikitas, Planning Department (PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

/04

SPEAKERS: Patricia Vaughey described her up-coming appeal. Jeremy Paul spoke for the permit holder in Vaughey's appeal.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

SPEAKERS: None.

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(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST:

Subject property at 641 – 27th Avenue. Appeal No(s). 03-197, All City Construction Co. vs. DBI. Letter from Joel Yodowitz, attorney for All City Construction Co., appellant(s), requesting rehearing of Appeal No(s). 03-197, decided May 12, 2004. At that time, upon motion by Commissioner Chin, the Board voted 2-3 to overrule DBI's notice of decision with a finding that a demolition took place which exceeded the scope of the permit, but which did not constitute an unlawful demolition, with additional findings as stated into the record by Commissioner Chin. Four votes being required to overturn a departmental action, the motion failed, and the decision by DBI was upheld. **Note:** Companion case, 03-199, Woo vs. DBI, was decided concurrently with 03-197. Howard & Susie Woo, the appellants in 03-199 and the subject property owners, however, did not file a request for rehearing. **Departmental Action:** Notice of Decision by Frank Chiu, Director of the Dept. of Building Inspection, dated Dec. 3, 2003, that an unlawful residential demolition has taken place at the subject property under Building Code §§ 103.3, 103.3.1 & 103.3.2, that BPA No. 2002/09/09/5995 is hereby revoked, and that a 5 year moratorium on the issuance of building permits is hereby imposed pursuant to Building Code § 103.3.1.

ACTION: Upon motion by Vice President Sugaya, the board voted 2-3 (President Harrington, and Commissioners Fung & Knox dissented) to deny the request for rehearing. Four votes being required to grant a rehearing request, the request was denied.

LIST OF PARTIES: Joel Yodowitz, attorney for appellant; Laurence Kornfield, DBI; Catherine Barnes, DCA.

PUBLIC COMMENT: None.

(3B) REHEARING REQUEST:

Subject property at 357 Howth Street. Appeal No(s). 04-078, Ard & Mosher vs. DBI, PDA. Letter from Rebecca Mosher, co-appellant(s), requesting rehearing of Appeal No(s). 04-078, decided on September 29, 2004. At that time, upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to uphold the subject permit with the following condition(s): a) that the fence be included in the plans; and b) that the Dept. of Building Inspection conduct a site visit in order to verify that the construction of the current addition does not exceed the plan dimensions (10 feet).

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to deny the request for rehearing.

LIST OF PARTIES: Rebecca Mosher, requestor; Laurence KornField, DBI.

PUBLIC COMMENT: None.

(4) APPEAL NO. 04-035

CRYSTAL LEI, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	337 – 28th Avenue. Appealing the suspension on April 23, 2004, of Building Permit Application No(s). 2003/04/15/2287, 2003/07/15/9528, & 2003/05/27/5515. Reason(s) for suspension: the scope of work and building information described on the building permit applications and approved plans does not reflect the actual condition and legal use of the building. PUBLIC HEARING HELD ON 8/18/2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to continue the hearing to December 1, 2004, with a report from DBI & PD on November 17, 2004 on siding permit issue.

LIST OF PARTIES: Archie Clarizio, attorney of appellant; Leo McFadden, DBI; Craig Nikitas, PD.

PUBLIC COMMENT: None.

(5) **APPEAL NO. 04-049**

JUAN YANES dba "CHARLES TOWING & MECHANICS", Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1251 Thomas Avenue. Appealing a Police Permit Zoning Referral (P51 Tow Car Firm) dated May 13, 2004, addressed to Juan Yanes, that the proposed use, tow car operator, requires Conditional Use Authorization (CU) in the Restricted Light Industrial (RLI) zoning district per Planning Code § 249.15(b)(2), and that such a use must be conducted within an area completely enclosed by a wall or concealing fence not less than 6 feet high. PUBLIC HEARING HELD ON 9/29/2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 5-0 to continue to Call of the Chair.

LIST OF PARTIES: Craig Nikitas, PD; Juan Yanes, appellant.

PUBLIC COMMENT: None.

(6) **APPEAL NO. 04-030**

MARVIN LAU, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	714 – 22nd Street. Appealing the denial on April 15, 2004, of a Permit to Alter a Building (on 3-unit residential building: install 12 vinyl windows in kind into existing frames; no structural changes; windows face front and are visible from the street; if applicable, bedroom windows shall comply with § 310.4 for rescue). APPLICATION NO. 2004/04/15/1367. **Note:** On June 9, 2004, the Board voted to uphold the denial of the subject permit. On July 21, 2004, the Board voted to grant the appellant's rehearing request. FOR REHEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 3-2 (Knox & Sugaya dissented) to overrule denial. Four votes being required to overrule a departmental action, the denial was upheld.

LIST OF PARTIES: Craig Nikitas, PD; Alex Koustas, agent of appellant; Marvin Lau, appellant.

PUBLIC COMMENT: (For Planning Department) Susan Eslick speaking for the Dog Patch Association said they want the denial upheld and that the area deserves high quality design. Erin Gruez for the Architectural Heritage organization. Janet Carpinelli for Dog Patch organization said they want wooden double-hung windows on the front of the building. Joe Boss for the Potrero Boosters and the Dog Patch group said the City action is not punitive and much time was spent on Dog Patch legislation.

(7) APPEAL NO. 03-087

BILL & LUBA GOWER, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	2250 Jackson Street. Appealing a determination dated May 20, 2003, addressed to Gary Bell, that the legal use of the subject property is a 5-unit apartment building based on available prior building permits and land use records. FOR HEARING TODAY.

ACTION: Withdrawn by appellants.

SPEAKERS: None.

(8) APPEAL NO. 04-081

LANE LOUIE, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	950 Grant Avenue. Protesting the issuance on July 2, 2004, to Elaine Chiu dba “Grand Palace”, Sidewalk Display Merchandise Permit. PERMIT NO. 04D-265. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Knox, the Board voted 5-0 to continue the hearing to December 8, 2004, with a equest for DPW BSM to make an appearance at the next meeting.

LIST OF PARTIES: Lane Louie, Appellant; Albert Chang, agent for permit holder.

PUBLIC COMMENT: None.

(9) APPEAL NO. 04-037

ANTHONY DUMONT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	155 Westwood Drive. Appealing a Notice of Decision by Dept. of Building Inspection Director Frank Chiu, dated April 19, 2004, revoking Building Permit Application No(s). 2003/05/19/4954, 2003/08/05/1263, and 2003/08/21/2731. Reason(s) for revocation: construction at the subject property exceeded the scope of the first two permits; and the third permit was issued in error due to false information supplied by the permit applicant. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Saunders absent) to reschedule the hearing to January 12, 2005 at the request of the parties.

SPEAKERS: None.

(10) APPEAL NO. 04-070

RUSSIAN HILL COMMUNITY ASSOCIATION, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPARTMENT APROVAL	1170-1180 Green Street. Protesting the issuance on June 17, 2004, to Jeffrey Horowitz, Permit to Alter a Building (on 6-unit apartment building: expansion of building by addition of partial 3rd floor, renovation of 2nd floor, and conversion of some crawl space to automobile parking). APPLICATION NO. 9925728S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to uphold the permit on condition that the skylight not exceed 3 feet from the finished elevation of the ceiling.

LIST OF PARTIES: Michele Sudduth, agent for appellant; Jeremy Paul, agent of permit holder; Craig Nikitas, PD; Laurence Kornfield, DBI.

PUBLIC COMMENT: John Banolis said the addition will directly impact him and that the building is the ugliest one on the block. Linda Marks read a letter from the Telegraph Hill Dwellers urging the DR decision to be upheld. John Bardis for Coalition of SF Neighborhoods described the chronology of the case over five years and said that height is the problem. Himeo Tsumori said he had a fire in his house and understands the difficulties of rebuilding after a fire. Mike Schwinn said the tenants in 1170 Green Street support the project. Mona Horowitz, wife of permit holder, said this five-year process has caused her family stress, and pain, and she urged the Board to uphold the permit.

ITEMS (11A) & (11B) SHALL BE HEARD TOGETHER:

(11A) **APPEAL NO. 04-094**

OTTO WIEGAND, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4001 Mission Street. Protesting the issuance on July 16, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7097S. FOR HEARING TODAY.

(11B) **APPEAL NO. 04-096**

SHAWN LEONARD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4001 Mission Street. Protesting the issuance on July 16, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7097S. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 5-0 to continue the hearing to December 1, 2004.

LIST OF PARTIES: Kass McMahon-Kelly, agent of appellant; Sean Gorman, agent of the permit holder; Craig Nikitas, PD.

PUBLIC COMMENT: (For Appellants) Lisa Everson, President of St. Mary's Park, said neighbors didn't have notice it was to be a four-story building. Anna Contreras said they trusted the architect and were mislead and they were never shown a scale model. James Aylward said they were promised shade trees on terraces but plans show too little room for trees that could block view of building. Elsie Aviles said the permit holder was supposed to bring a scale model and never did. Lori Cherpan said letter from a neighbor opposing another four-level monstrosity. Libby Kelly-McMahon said she trusted the developer but it will be like 3999 Mission and they were duped and she feels foolish now. Dennis Billingsley said architect was charming and down-to-earth and he thought it would be a three-story building. Guido Guinasso, past President of St. Mary's Park, agreed with all arguments in opposition to the project. Eric Poole said that traffic study from DPT and a DPW neighborhood clean-up plan are needed. Jay Ach said the project is an architectural insult to the neighborhood. (For Permit Holder) Robert Meller explained that the NC-1 zoning allows these 40' buildings in this neighborhood and that due notice was given. Joe O'Donoghue said how tall is tall and how small is small.

ITEMS (12A) & (12B) SHALL BE HEARD TOGETHER:

(12A) **APPEAL NO. 04-097**

BRENDAN LALOR, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	8 Murray Street. Protesting the issuance on July 29, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7104S. FOR HEARING TODAY.

ACTION: 12 A Withdrawn by appellant.

(12B) **APPEAL NO. 04-102**

OTTO WIEGAND, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	8 Murray Street. Protesting the issuance on July 29, 2004, to 4001 Mission Street Associates LLC, Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7104S. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 5-0 to continue the hearing to December 1, 2004.

(13) **APPEAL NO. 04-105**

MITCHELL SCHOENBRUN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1401-1409 Castro Street. Protesting the issuance on August 2, 2004, to Isa Muhawieh, Permit to Alter a Building (on apartment building with commercial: storage room into laundry room at ground floor). APPLICATION NO. 2004/08/02/0401. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Knox, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the hearing to January 26, 2005 at the request of the parties.

ITEMS (14A) & (14B) SHALL BE HEARD TOGETHER:

(14A) **APPEAL NO. 04-106**

DEE & JUDY LEMMON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1283 Portola Drive. Protesting the issuance on August 2, 2004, to Yu Hua Chen (New Subject Property Owner Edmund Ko), Permit to Erect a Building (2-story single family house with 1,434sf of ground floor area). APPLICATION NO. 2002/07/17/1685S. FOR HEARING TODAY.

(14B) **APPEAL NO. 04-107**

JOHN & JACQUELINE KING, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1283 Portola Drive. Protesting the issuance on August 2, 2004, to Yu Hua Chen (New Subject Property Owner Edmund Ko), Permit to Erect a Building (2-story single family house with 1,434sf of ground floor area). APPLICATION NO. 2002/07/17/1685S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Knox, the Board voted 5-0 to uphold the permit.

LIST OF PARTIES: Dee Lemmon, co-appellant; Jacqueline King, co-Appellant; Charles Higley, attorney for permit holder; Craig Nikitas, PD.

PUBLIC COMMENT: (For Appellant) David Bond said that no 311 Notice went to neighbors for this postage stamp-size lot project and he is confused about which lot is to be used.

ITEMS (15A), (15B) & (15C) SHALL BE HEARD TOGETHER:

(15A) **APPEAL NO. 04-108**

JEFFREY LIVINGSTON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	129 Westwood Drive. Protesting the issuance on August 3, 2004, to John Zhou, Permit to Alter a Building (on single-family house: change existing 2nd floor study room and bedroom to storage per plan; under Building Permit Application No(s). 2004/06/02/5323). APPLICATION NO. 2004/08/03/0421. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to uphold the subject permit concerning conversion of 2nd floor storage, on condition that the stairway to the storage area not be open.

(15B) **APPEAL NO. 04-109**

JEFFREY LIVINGSTON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	129 Westwood Drive. Protesting the issuance on August 3, 2004, to John Zhou, Permit to Alter a Building (on single-family house: repair, roofing, reroofing; replace interior lath and plaster with GYPBD; repair windows; under Building Permit Application No(s). 2004/06/02/5323). APPLICATION NO. 2004/07/01/7873. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to uphold the subject permit.

(15C) **APPEAL NO. 04-124**

JEFFREY LIVINGSTON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	129 Westwood Drive. Protesting the issuance on June 2, 2004, to John Zhou, Permit to Alter a Building (on single-family house: add exercise room, family room, laundry and full bath at basement; relocate bathroom fixtures and walls; excavate basement floor and reinforce walls per plans). APPLICATION NO. 2004/06/02/5323. JURISDICTION GRANTED 9/8/2004. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to uphold the subject permit on condition that the laundry room be smaller, and with a Notice of Special Restrictions that indicates the subject property is a single-family house.

LIST OF PARTIES: Jeffery Livingston, appellant; Laurence Kornfield, DBI; Walter Parsley, attorney for permit holder; Craig Nikitas, PD.

PUBLIC COMMENT: (For Appellant) Anita Theoharis said the neighborhood needs help in having matrix enforced to prevent illegal units. Anne Chen said racism is not the issue but rather the Code violations. (For Permit Holder) Jeremy Paul said the issue is the case of the attic and that the documents are here to show that the users are consistent for a full-length building. Pat Buscovich said the records are not clear and that it is hard to get story count.

There being no further business, President Harrington adjourned the meeting at 11:38p.m.

Robert H Feld

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, NOVEMBER 17, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

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(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST:

Subject property at 4386 – 26th Street. Appeal No(s). 04-087, Koenig vs. DBI, PDA. Letter from David Cincotta, attorney for Howard Koenig, appellant, requesting rehearing of Appeal No(s). 04-087, decided October 13, 2004. At that time, upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to uphold the subject permit with adoption of the Planning Commission's Discretionary Review (DR) findings. Permit Holder(s); Paul Weber. Project: on single-family house, 3rd story addition and remodel of existing house.

(4) CONSENT ITEMS (DBI PENALTY):

With the consent of the Dept. of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) APPEAL NO. 04-115

JOEL REIF, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	86 Lundys Lane. Appeal for refund of penalty imposed for work done without a permit (on single-family house: replace kitchen cabinets; remodel kitchen; paint deck and reinforce top railing; remodel bathroom; replace basin and tub; repair deck less than 50%). APPLICATION NO. 2004/08/18/1885. FOR HEARING TODAY.

(5) **APPEAL NO. 03-154**

ULYSSES NAPURI dba "LAST STOP SOUVENIR", Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	498 Beach Street. Appealing the denial on May 5, 2003, of a Sidewalk Display Merchandise Permit. ORDER NO. 174,098. JURISDICTION GRANTED ON 9/17/2003. PUBLIC HEARING HELD ON 12/10/2003. FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. V03-209**

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on December 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. **Note:** On March 24, 2004, the Board voted 5-0 to uphold the variance with condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature. On May 12, 2004, the Board voted 4-1 to grant the rehearing request by the appellants and to set the rehearing for June 30, 2004. REHEARING HELD & CLOSED ON JULY 28, 2004. FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 04-091**

ALAN MACREA, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1618 – 33rd Avenue. Protesting the issuance on July 14, 2004, to Steven Tam, Permit to Alter a Building (on single-family house: revision to Building Permit Application No(s). 2003/05/21/5177; remove and relocate one full bath and replace with ½ bath at garage level and add a new storage room; add a skylight with vent at light court; remove existing kitchen counter, cabinets and sink, and replace with new at 2nd floor; remove dry rot balcony (decorative) at front and replace with metal decorative balcony; relocate master shower; correction for NOV No(s). 200344353). APPLICATION NO. 2004/06/17/6737. PUBLIC HEARING HELD ON 10/13/2004. FOR FURTHER CONSIDERATION TODAY.

(8) **APPEAL NO. 03-194**

ARA & BERG TEHLIRIAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL DR Requestor(s): JOSE MORALES	572 San Jose Avenue. Appealing the denial on November 21, 2003, of a Site Permit to Alter a Building a Building (on two-unit building: horizontal and vertical addition, 335sf on ground floor, 368sf on 2nd floor, and 1038sf on 3rd floor; electrical, plumbing, and mechanical under separate permit). APPLICATION NO. 2002/11/04/0682S. **Note:** On March 3, 2004, the Board voted to uphold the denial of the subject permit. On July 21, 2004, the Board voted to grant the appellants' rehearing request. FOR REHEARING TODAY.

(9) **APPEAL NO. 04-019**

OCEAN PARC VILLAGE HOMEOWNER'S ASSOCATION, Appellant(s) vs. PLANNING DEPARTMENT, Respondent	730 Great Highway. Protesting the issuance on March 8, 2004, to Tom and Breda MacDonald & KTH LLC, Coastal Zone Permit Authorization (proposal is to construct a new 3-story, 4-unit building approximately 32 feet tall on a vacant lot). CASE NO. 2003.1009P. FOR HEARING TODAY.

(10) **APPEAL NO. 04-024**

JOHN ATWATER & DIANA NELSON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	3746 Jackson Street. Appealing a determination dated March 16, 2004, addressed to David Cincotta, that the proposed expansion, which is not within the front portion of the property where a height increase is permitted, and which, in any case, extends above the 35 foot absolute height limit, would not be allowed under Planning Code §§ 261(b)(1), 261(c), 261(c)(1), and 261(c)(2). FOR HEARING TODAY.

(11) **APPEAL NO. V04-052**

LAURA PERRAULT, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	32 Carson Street. Appealing the partial denial of a Rear Yard Variance (proposal to reconstruct an existing non-complying room at the rear of the property that would include an increase in volume and a new roof form was denied; the proposal to reconstruct the same existing non-complying room at the rear without the increase in volume and without a new roof form was granted; the proposal to construct a new larger deck with a spiral staircase was also granted). VARIANCE CASE NO. 2003.1242V. FOR HEARING TODAY.

ITEMS (12A) & (12B) SHALL BE HEARD TOGETHER:

(12A) **APPEAL NO. 04-079**

COMMUNITIES FOR A BETTER ENVIRONMENT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1201 Illinois Street. Protesting the issuance on July 6, 2004, to Mirant Potrero LLC, Permit to Alter a Building (on an industrial power building: installation of an aqueous ammonia storage area; removal of existing pavement; partial excavation and removal of existing earth and concrete for new ammonia storage area and sump; excavation of remaining soil within sump area; installation of H-poles for support of containment sump and ammonia storage tank; installation of re-enforced concrete-mat foundation, walls and support piers for the sump and ammonia storage tank; backfilling as required; installation of drain from truck unloading drive to sump; installation of reinforced concrete for diked area slab, walls, footings, equipment pads and truck unloading drive; installation of structural steel for sump cover, stairs and electrical equipment canopy; final paving around disturbed area; tank installation under separate permit; existing building work part of separate permit). APPLICATION NO. 2004/02/19/6692. FOR HEARING TODAY.

(12B) **APPEAL NO. 04-080**

COMMUNITIES FOR A BETTER ENVIRONMENT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1201 Illinois Street. Protesting the issuance on July 6, 2004, to Mirant Potrero LLC, Permit to Alter a Building (on an industrial power building: structural work involved in the alteration of the existing power plant structure for the installation of selective catalatic reduction (SCR) equipment for Nox removal; installation of new steel and catwalks within existing structure and reinforcement of existing steel for the revised flues and new piping, skids and manifold valve stations). APPLICATION NO. 2004/03/08/7971. FOR HEARING TODAY.

(13) **APPEAL NO. 04-084**

SANDRA LUGO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	767 Lisbon Street. Protesting the issuance on July 2, 2004, to Jian Nian Xu, Permit to Alter a Building (on single-family house: remove stove, counter with wet sink and refrigerator including all utility lines to source). APPLICATION NO. 2004/07/02/7916. FOR HEARING TODAY.

(14) **APPEAL NO. 04-089**

SUE HESTOR, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	875-899 Howard Street. Appealing a determination dated July 8, 2004, addressed to Joel Yodowitz at Ruben & Junius LLP, that the interim use of the subject property by the California Academy of Sciences does not constitute an abandonment of the office entitlement granted by the Planning Commission per motion no(s). 15061 and 15062. FOR HEARING TODAY.

(15) **APPEAL NO. 04-098**

JOHN JOSEPH SCHENONE TRUST, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1907 Egbert Avenue. Protesting the issuance on August 2, 2004, to Rodrigo Galimba, Permit to Erect a Building (3-story, single-family house with 1,575sf of ground floor area). APPLICATION NO. 2003/04/11/2024S. FOR HEARING TODAY.

(16) **APPEAL NO. 04-101**

PATRICIA VAUGHEY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2775 Filbert Street. Protesting the issuance on May 28, 2004, to Tina Bartlett, Permit to Alter a Building (on single-family house: install redwood fence as per plan around property, 10'-0" in height). APPLICATION NO. 2004/05/28/5113. JURISDICTION GRANTED JULY 28, 2004. FOR HEARING TODAY.

(17) **APPEAL NO. 04-110**

KERI EVILSIZOR, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	137-139 Cook Street. Protesting the issuance on August 4, 2004, to Joseph Tierney, Permit to Alter a Building (on 2-unit building: raise building to create new garage in existing basement; and add new 3rd floor unit). APPLICATION NO. 2002/06/07/8509S. FOR HEARING TODAY.

(18) **APPEAL NO. 04-111**

LEORA & MICHAEL VESTEL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1405 York Street. Protesting the issuance on August 9, 2004, to Jason Lin, Permit to Alter a Building (on single-family house: legalize rooms at ground floor; 2 bedrooms, laundry, full bath and storage). APPLICATION NO. 2004/08/09/1027. FOR HEARING TODAY.

(19) **APPEAL NO. 04-112**

PATRICK STOREY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	674 – 5th Avenue. Protesting the issuance on August 9, 2004, to Lan Wong, Permit to Alter a Building (on single-family house: new emergency walkway (new deck) at the rear of the cottage on top of existing roof deck; comply with NOV No(s). 200449859; separate permit required for Nov No(s). 200451719; no work on front building). APPLICATION NO. 2004/06/02/5354. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Permit holder's, Respondent's or Other Parties' Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 415-575-6880 if you have any questions concerning this agenda.

Date posted: **October 22nd, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
FRANK FUNG	**COMMISSIONER**
RANDALL KNOX	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, NOVEMBER 17, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Frank Fung, and Commissioner Randall Knox. (Commissioner Sabrina Saunders left meeting at 6:45pm)

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Lawrence Badiner, Planning Department (PD); Leo McFadden, Senior Building Inspector, Dept. of Building Inspection (SBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

/04

LIST OF PARTIES: Leo McFadden, DBI.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

DOCUMENTS DEPT.
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(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST:

Subject property at 4386 – 26th Street. Appeal No(s). 04-087, Koenig vs. DBI, PDA. Letter from David Cincotta, attorney for Howard Koenig, appellant, requesting rehearing of Appeal No(s). 04-087, decided October 13, 2004. At that time, upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Chin absent) to uphold the subject permit with adoption of the Planning Commission's Discretionary Review (DR) findings. Permit Holder(s); Paul Weber. Project: on single-family house, 3rd story addition and remodel of existing house.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-1 (President Harrington dissented) to deny the Request for Rehearing.

LIST OF PARTIES: Howard Koenig, appellant; Paul Weber, permit holder.

(4) CONSENT ITEMS (DBI PENALTY):

With the consent of the Dept. of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) APPEAL NO. 04-115

JOEL REIF, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	86 Lundys Lane. Appeal for refund of penalty imposed for work done without a permit (on single-family house: replace kitchen cabinets; remodel kitchen; paint deck and reinforce top railing; remodel bathroom; replace basin and tub; repair deck less than 50%). APPLICATION NO. 2004/08/18/1885. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-1 (Commissioner Knox dissented) to reduce the subject penalty to 2 times the regular fee.

LIST OF PARTIES: Leo McFadden, DBI; Juliet Ellis, agent for appellant.

(5) APPEAL NO. 03-154

ULYSSES NAPURI dba "LAST STOP SOUVENIR", Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	498 Beach Street. Appealing the denial on May 5, 2003, of a Sidewalk Display Merchandise Permit. ORDER NO. 174,098. JURISDICTION GRANTED ON 9/17/2003. PUBLIC HEARING HELD ON 12/10/2003. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Knox, the Board voted 4-0-1 (Commissioner Fung absent) to continue the matter to January 26, 2005 at the request of the parties.

(6) **APPEAL NO. V03-209**

CATHERINE FERREIRA & ANN FERREIRA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1120-1122 Vallejo Street. Protesting the granting on December 23, 2003, to Susan Lee, Jennifer Cherk & Jay Capela, Rear Yard Variance (on 2-family building: construction of an enclosed pavilion on the roof of the existing 3-story building and the enclosure of two areas at the rear of the building that are currently unenclosed). VARIANCE CASE NO. 2003.0476DV. **Note:** On March 24, 2004, the Board voted 5-0 to uphold the variance with condition(s): a) that the north portion of the roof be sloped to allow for more sunlight into the adjacent backyard; and b) that the front (south) elevation be redesigned to reflect the solid to void ratio of buildings of a similar nature. On May 12, 2004, the Board voted 4-1 to grant the rehearing request by the appellants and to set the rehearing for June 30, 2004. REHEARING HELD & CLOSED ON JULY 28, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 5-0 to uphold the subject variance with adoption of conditions as read into the record by Vice President Sugaya, and with adoption of findings as read into the record by the Zoning Administrator.

LIST OF PARTIES: Catherine Ferreira, co-appellant; Jay Capela, co-permit holder; Lawrence Badiner, Zoning Administrator.

(7) **APPEAL NO. 04-091**

ALAN MACREA, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1618 – 33rd Avenue. Protesting the issuance on July 14, 2004, to Steven Tam, Permit to Alter a Building (on single-family house: revision to Building Permit Application No(s). 2003/05/21/5177; remove and relocate one full bath and replace with ½ bath at garage level and add a new storage room; add a skylight with vent at light court; remove existing kitchen counter, cabinets and sink, and replace with new at 2nd floor; remove dry rot balcony (decorative) at front and replace with metal decorative balcony; relocate master shower; correction for NOV No(s). 200344353). APPLICATION NO. 2004/06/17/6737. PUBLIC HEARING HELD ON 10/13/2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to uphold the subject permit.

LIST OF PARTIES: Appellant and Permit holder did not appear.

(8) **APPEAL NO. 03-194**

ARA & BERG TEHLIRIAN, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL DR Requestor(s): JOSE MORALES	572 San Jose Avenue. Appealing the denial on November 21, 2003, of a Site Permit to Alter a Building a Building (on two-unit building: horizontal and vertical addition, 335sf on ground floor, 368sf on 2nd floor, and 1038sf on 3rd floor; electrical, plumbing, and mechanical under separate permit). APPLICATION NO. 2002/11/04/0682S. **Note:** On March 3, 2004, the Board voted to uphold the denial of the subject permit. On July 21, 2004, the Board voted to grant the appellants' rehearing request. FOR REHEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 3-2 (President Harrington & Commissioner Fung dissented) to uphold the denial by the Planning Commission.

LIST OF PARTIES: Lawrence Badiner, Zoning Administrator; Brett Gladstone, attorney for appellant's; Christine Tehlirian, wife of co-appellant; Ariel Gershan, agent

(9) **APPEAL NO. 04-019**

OCEAN PARC VILLAGE HOMEOWNER'S ASSOCATION, Appellant(s) vs. PLANNING DEPARTMENT, Respondent	730 Great Highway. Protesting the issuance on March 8, 2004, to Tom and Breda MacDonald & KTH LLC, Coastal Zone Permit Authorization (proposal is to construct a new 3-story, 4-unit building approximately 32 feet tall on a vacant lot). CASE NO. 2003.1009P. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to reschedule the hearing to March 30, 2005 at the request of the parties.

(10) **APPEAL NO. 04-024**

JOHN ATWATER & DIANA NELSON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	3746 Jackson Street. Appealing a determination dated March 16, 2004, addressed to David Cincotta, that the proposed expansion, which is not within the front portion of the property where a height increase is permitted, and which, in any case, extends above the 35 foot absolute height limit, would not be allowed under Planning Code §§ 261(b)(1), 261(c), 261(c)(1), and 261(c)(2). FOR HEARING TODAY.

ACTION: (1) Upon motion by President Harrington, the Board voted 3-1-1 (Vice President Sugaya dissented, Commissioner Saunders absent) to overturn the Zoning Administrator's determination with findings as read into the record by Commissioner Knox. (2) Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Saunders absent) to rescind the previous motion and continue the hearing to December 8, 2004, with the public hearing closed and for matter to be placed at the end of the agenda.

LIST OF PARTIES: Lawrence Badiner, Zoning Administrator; David Cincotta, attorney for appellants; Diana Nelson, co-appellant.

(11) **APPEAL NO. V04-052**

LAURA PERRAULT, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	32 Carson Street. Appealing the partial denial of a Rear Yard Variance (proposal to reconstruct an existing non-complying room at the rear of the property that would include an increase in volume and a new roof form was denied; the proposal to reconstruct the same existing non-complying room at the rear without the increase in volume and without a new roof form was granted; the proposal to construct a new larger deck with a spiral staircase was also granted). VARIANCE CASE NO. 2003.1242V. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Commissioner Saunders absent) to overturn the denial, and grant the variance with the following findings: that there is no loss of housing since the other unit is being retained, & that the project creates a family-size unit which is an objective of the General Plan.
LIST OF PARTIES: Lawrence Badiner, Zoning Administrator; Jeremy Paul, agent for appellant; Barbara Keely, for appellant; Ed Sweeney, DBI.

ITEMS (12A) & (12B) SHALL BE HEARD TOGETHER:

(12A) **APPEAL NO. 04-079**

COMMUNITIES FOR A BETTER ENVIRONMENT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1201 Illinois Street. Protesting the issuance on July 6, 2004, to Mirant Potrero LLC, Permit to Alter a Building (on an industrial power building: installation of an aqueous ammonia storage area; removal of existing pavement; partial excavation and removal of existing earth and concrete for new ammonia storage area and sump; excavation of remaining soil within sump area; installation of H-poles for support of containment sump and ammonia storage tank; installation of re-enforced concrete-mat foundation, walls and support piers for the sump and ammonia storage tank; backfilling as required; installation of drain from truck unloading drive to sump; installation of reinforced concrete for diked area slab, walls; footings, equipment pads and truck unloading drive; installation of structural steel for sump cover, stairs and electrical equipment canopy; final paving around disturbed area; tank installation under separate permit; existing building work part of separate permit). APPLICATION NO. 2004/02/19/6692. FOR HEARING TODAY.

(12B) **APPEAL NO. 04-080**

COMMUNITIES FOR A BETTER ENVIRONMENT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1201 Illinois Street. Protesting the issuance on July 6, 2004, to Mirant Potrero LLC, Permit to Alter a Building (on an industrial power building: structural work involved in the alteration of the existing power plant structure for the installation of selective catalatic reduction (SCR) equipment for Nox removal; installation of new steel and catwalks within existing structure and reinforcement of existing steel for the revised flues and new piping, skids and manifold valve stations). APPLICATION NO. 2004/03/08/7971. FOR HEARING TODAY.

ACTION: Withdrawn by the appellants.

(13) **APPEAL NO. 04-084**

SANDRA LUGO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	767 Lisbon Street. Protesting the issuance on July 2, 2004, to Jian Nian Xu, Permit to Alter a Building (on single-family house: remove stove, counter with wet sink and refrigerator including all utility lines to source). APPLICATION NO. 2004/07/02/7916. FOR HEARING TODAY.

ACTION: Withdrawn by Appellant's attorney orally, not on the record, but witnessed by Robert Feldman, Executive Secretary.

(14) **APPEAL NO. 04-089**

SUE HESTOR, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	875-899 Howard Street. Appealing a determination dated July 8, 2004, addressed to Joel Yodowitz at Ruben & Junius LLP, that the interim use of the subject property by the California Academy of Sciences does not constitute an abandonment of the office entitlement granted by the Planning Commission per motion no(s). 15061 and 15062. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the Zoning Administrator's determination.

LIST OF PARTIES: Sue Heston, appellant; Lawrence Badiner, Zoning Administrator; Joel Yodowitz, attorney for determination holder.

(15) **APPEAL NO. 04-098**

JOHN JOSEPH SCHENONE TRUST, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1907 Egbert Avenue. Protesting the issuance on August 2, 2004, to Rodrigo Galimba, Permit to Erect a Building (3-story, single-family house with 1,575sf of ground floor area). APPLICATION NO. 2003/04/11/2024S. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the permit.

LIST OF PARTIES: Johnny Schenone, agent for appellant; Marcela Galimba, agent for permit holder; Rodrigo Galimba, permit holder.

(16) APPEAL NO. 04-101

PATRICIA VAUGHEY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2775 Filbert Street. Protesting the issuance on May 28, 2004, to Tina Bartlett, Permit to Alter a Building (on single-family house: install redwood fence as per plan around property, 10'-0" in height). APPLICATION NO. 2004/05/28/5113. JURISDICTION GRANTED JULY 28, 2004. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the hearing to December 8, 2004.

LIST OF PARTIES: Patricia Vaughey, appellant; Jeremy Paul, agent for permit holder.

(17) APPEAL NO. 04-110

KERI EVILSIZOR, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	137-139 Cook Street. Protesting the issuance on August 4, 2004, to Joseph Tierney, Permit to Alter a Building (on 2-unit building: raise building to create new garage in existing basement; and add new 3rd floor unit). APPLICATION NO. 2002/06/07/8509S. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 3-2 (President Harrington and Commissioner Saunders dissented) to reschedule the matter to December 8, 2004 on appellant's request based on late submittal of documents by permit holder.

LIST OF PARTIES: Lee Moulton, agent for permit holder; Joe O'Donoghue, for permit holder; Keri Evilsizor, appellant; John Evilsizor, for appellant.

(18) **APPEAL NO. 04-111**

LEORA & MICHAEL VESTEL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1405 York Street. Protesting the issuance on August 9, 2004, to Jason Lin, Permit to Alter a Building (on single-family house: legalize rooms at ground floor; 2 bedrooms, laundry, full bath and storage). APPLICATION NO. 2004/08/09/1027. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 3-1-1 (Vice President Sugaya dissented, Commissioner Saunders absent) to uphold the subject permit.

LIST OF PARTIES: Samuel Broydo, agent for appellants; Wendy Lin, agent for permit holder; Leo McFadden, DBI; Lawrence Badiner, Zoning Administrator.

(19) **APPEAL NO. 04-112**

PATRICK STOREY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	674 – 5th Avenue. Protesting the issuance on August 9, 2004, to Lan Wong, Permit to Alter a Building (on single-family house: new emergency walkway (new deck) at the rear of the cottage on top of existing roof deck; comply with NOV No(s). 200449859; separate permit required for Nov No(s). 200451719; no work on front building). APPLICATION NO. 2004/06/02/5354. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Saunders absent) to continue to Call of Chair so that the permit holder can meet with DBI to resolve the other code violations on the subject property.

LIST OF PARTIES: Patrick Storey, appellant; Lan Wong, permit holder; Leo McFadden, DBI.

There being no further business, President Harrington adjourned the meeting at 10:30 p.m.

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

Board of Appeals

November 24, 2004 (No Meeting)

PUBLIC NOTICE

The Board of Appeals has not scheduled a meeting for November 24th, 2004. The next regular meeting is scheduled for **Wednesday, December 1st, 2004, City Hall, Room 416, 5:00 p.m.,** One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any other appeal matter.

FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

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Date Posted: **November 19th, 2004**

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, DECEMBER 1, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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11-29-04 A11:48 RCVD

(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS:

(3A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 4947A – 17th Street. Permit issued on Sept. 29, 2004. Last day to appeal was Oct. 14, 2004. Jurisdiction request received on Oct. 28, 2004. Letter from Sarge Holtzman, attorney for Catherine Baker, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/07/08/8279. Permit Holder(s): David Peckman & Michael Baffa. Project: on 4-unit apartment building: remove vacant studio at ground floor behind garage and convert into laundry room; voluntary removal of unit.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 517 Hickory Street. Permit issued on Nov. 21, 2003. Last day to appeal was Dec. 8, 2003. Jurisdiction request received on Oct. 29, 2004. Letter from Ashley Allen, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2000/05/18/0428. Permit Holder(s): Stuart David Hills. Project: vertical addition.

(3C) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 110 Romain Street. Permit issued on July 23, 2004. Last day to appeal was Aug. 9, 2004. Jurisdiction request received on Nov. 10, 2004. Letter from Steve Atkinson, attorney for Bruce Massarsky, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/07/23/9697. Permit Holder(s): Jane Wales & Scott Blaze. Project: renew expired Building Permit Application No(s). 2001/11/28/4075S (roof deck under 400sf) and complete work.

(4) **APPEAL NO. 04-035**

CRYSTAL LEI, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	337 – 28th Avenue. Appealing the suspension on April 23, 2004, of Building Permit Application No(s). 2003/04/15/2287, 2003/07/15/9528, & 2003/05/27/5515. Reason(s) for suspension: the scope of work and building information described on the building permit applications and approved plans does not reflect the actual condition and legal use of the building. PUBLIC HEARING HELD AUG. 18, 2004. FOR FURTHER CONSIDERATION TODAY.

ITEMS (5A), (5B) & (5C) SHALL BE HEARD TOGETHER:

(5A) **APPEAL NO. 04-094**

OTTO WIEGAND, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4001 Mission Street. Protesting the issuance on July 16, 2004, to 4001 Mission St. Associates LLC, Site Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7097S. PUBLIC HEARING HELD NOV. 10, 2004. FOR FURTHER CONSIDERATION TODAY.

(5B) **APPEAL NO. 04-096**

SHAWN LEONARD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4001 Mission Street. Protesting the issuance on July 16, 2004, to 4001 Mission St. Associates LLC, Site Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7097S. PUBLIC HEARING HELD NOV. 10, 2004. FOR FURTHER CONSIDERATION TODAY.

(5C) **APPEAL NO. 04-102**

OTTO WIEGAND, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	8 Murray Street. Protesting the issuance on July 29, 2004, to 4001 Mission St. Associates LLC, Site Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7104S. PUBLIC HEARING HELD NOV. 10, 2004. FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 04-100**

GEORGE & JULIE VAIL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	163 Rae Avenue. Protesting the issuance on July 27, 2004, to Yuen Yuen Kwok, Site Permit to Erect a Building (3-story single family house with 1,900sf of ground floor area). APPLICATION NO. 2003/12/08/1787S. PUBLIC HEARING HELD & CLOSED ON OCTOBER 20, 2004. FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 04-122**

BORIS SHAMIS, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the suspension on September 1, 2004, of a Driver of Public Passenger Vehicle For Hire Permit. PERMIT NO. 055382. RESOLUTION NO. 2004-48. FOR HEARING TODAY.

ITEMS (8A) & (8B) SHALL BE HEARD TOGETHER:

(8A) **APPEAL NO. 04-074**

MICHAEL RABBITT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	141 Willard Street North. Appealing the denial on July 8, 2004 of Demolition Permit to Demolish a Building (2-unit building with 1,073sf of ground floor area). APPLICATION NO. 2003/05/22/5283. FOR HEARING TODAY.

(8B) **APPEAL NO. 04-075**

MICHAEL RABBITT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	141 Willard Street North. Appealing the denial on July 8, 2004 of Permit to Erect a Building (4-story, 2-unit building with 1,862sf of ground floor area). APPLICATION NO. 2003/05/22/5280S. FOR HEARING TODAY.

(9) **APPEAL NO. 04-076**

JOHN & LESLIE WOODWARD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	65 Caselli Avenue. Protesting the issuance on June 30, 2004, to Stewart Oaten, Permit to Alter a Building (on 2-unit building: replace existing deck, extend about 4'0" and new stairs). APPLICATION NO. 2004/06/30/7682. FOR HEARING TODAY.

(10) **APPEAL NO. 04-116**

JOHN BRENNAN, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1420 Haight Street. Appealing a determination dated August 17, 2004, addressed to Matthew Brennan (Subject Property Owner Mehran Ismaili), that the notification and hearing for Conditional Use (CU) Motion No. 16593, which adds 2,300sf of retail space to the existing 3,300sf shoe store at the subject property, was properly performed, and thus it is not necessary to halt construction as authorized under CU Motion. FOR HEARING TODAY.

(11) **APPEAL NO. 04-117**

BEVERLY CHILTON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	129 Ashton Avenue. Protesting the issuance on August 17, 2004, to Dan Devries & Chris Zupanovich, Site Permit to Alter a Building (on single-family house: horizontal addition to the rear). APPLICATION NO. 2003/09/03/3788S. FOR HEARING TODAY.

(12) **APPEAL NO. 04-118**

AUDREY CARLSON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2368 Vallejo Street. Protesting the issuance on August 17, 2004, to Gina Best, Permit to Alter a Building (on 2-unit building: add bay windows instead of flat windows in two rooms; add a French door instead of window from the bedroom to the garden; revisions to Building Permit Application No(s). 2002/01/04/6319). APPLICATION NO. 2004/08/17/1803. FOR HEARING TODAY.

(13) **APPEAL NO. 04-119**

YIM HO & CHEUNG KAM LEUNG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL § 14 Parties: PING WONG & YU CHAN WONG	331 Girard Street. Appealing the denial on September 3, 2004, of Permit to Alter a Building (on single-family house: repair fire damage; interior alteration; add one story plus rear addition; and one more unit). APPLICATION NO. 2003/12/01/1345S. FOR HEARING TODAY.

(14) **APPEAL NO. 04-121**

SQUIRE ALLIGATOR, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	407 Clayton Street. Protesting the issuance on August 20, 2004, to Ronald Romine, Permit to Alter a Building (on single-family house: comply with NOV No(s). 200449913 & 199817371; remove illegal workshop in garage-worktable, tools, cabinet and miscellaneous items). APPLICATION NO. 2004/08/20/2137. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Permit holder's, Respondent's or Other Parties' Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 415-575-6880 if you have any questions concerning this agenda.

Date posted: **November 23rd, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
FRANK FUNG	**COMMISSIONER**
RANDALL KNOX	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, DECEMBER 1, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Frank Fung, and Commissioner Randall Knox. (Commissioner Sabrina Saunders absent).

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Jonas Ionin, Planning Department (PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

LIST OF SPEAKERS: Jeremy Paul.

DOCUMENTS DEPT.

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(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS:

(3A) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 4947A – 17th Street. Permit issued on Sept. 29, 2004. Last day to appeal was Oct. 14, 2004. Jurisdiction request received on Oct. 28, 2004. Letter from Sarge Holtzman, attorney for Catherine Baker, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/07/08/8279. Permit Holder(s): David Peckman & Michael Baffa. Project: on 4-unit apartment building: remove vacant studio at ground floor behind garage and convert into laundry room; voluntary removal of unit.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Saunders absent) to continue the matter to February 23, 2005 (to be heard together with 04-175 on same date).

LIST OF PARTIES: Sarge Holtzman, attorney for requestor; Ross Madden, attorney for permit holder; Laurence Kornfield, DBI.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 517 Hickory Street. Permit issued on Nov. 21, 2003. Last day to appeal was Dec. 8, 2003. Jurisdiction request received on Oct. 29, 2004. Letter from Ashley Allen, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2000/05/18/0428. Permit Holder(s): Stuart David Hills. Project: vertical addition.

ACTION: None. Request withdrawn.

(3C) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 110 Romain Street. Permit issued on July 23, 2004. Last day to appeal was Aug. 9, 2004. Jurisdiction request received on Nov. 10, 2004. Letter from Steve Atkinson, attorney for Bruce Massarsky, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/07/23/9697. Permit Holder(s): Jane Wales & Scott Blaze. Project: renew expired Building Permit Application No(s). 2001/11/28/4075S (roof deck under 400sf) and complete work.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the hearing to January 12, 2005 at the request of the parties.

(4) APPEAL NO. 04-035

CRYSTAL LEI, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	337 – 28th Avenue. Appealing the suspension on April 23, 2004, of Building Permit Application No(s). 2003/04/15/2287, 2003/07/15/9528, & 2003/05/27/5515. Reason(s) for suspension: the scope of work and building information described on the building permit applications and approved plans does not reflect the actual condition and legal use of the building. PUBLIC HEARING HELD AUG. 18, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Knox, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the hearing to December 15, 2004 at the request of the parties.

ITEMS (5A), (5B) & (5C) SHALL BE HEARD TOGETHER:

(5A) **APPEAL NO. 04-094**

OTTO WIEGAND, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4001 Mission Street. Protesting the issuance on July 16, 2004, to 4001 Mission St. Associates LLC, Site Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7097S. PUBLIC HEARING HELD NOV. 10, 2004. FOR FURTHER CONSIDERATION TODAY.

(5B) **APPEAL NO. 04-096**

SHAWN LEONARD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4001 Mission Street. Protesting the issuance on July 16, 2004, to 4001 Mission St. Associates LLC, Site Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7097S. PUBLIC HEARING HELD NOV. 10, 2004. FOR FURTHER CONSIDERATION TODAY.

(5C) **APPEAL NO. 04-102**

OTTO WIEGAND, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	8 Murray Street. Protesting the issuance on July 29, 2004, to 4001 Mission St. Associates LLC, Site Permit to Erect a Building (4-story, 3-unit condominium building). APPLICATION NO. 2002/09/20/7104S. PUBLIC HEARING HELD NOV. 10, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the hearings to January 12, 2005 at the request of the parties.

LIST OF PARTIES: Jay Ach, for appellant; Kass McMahon, agent for appellants.

(6) APPEAL NO. 04-100

GEORGE & JULIE VAIL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	163 Rae Avenue. Protesting the issuance on July 27, 2004, to Yuen Yuen Kwok, Site Permit to Erect a Building (3-story single family house with 1,900sf of ground floor area). APPLICATION NO. 2003/12/08/1787S. PUBLIC HEARING HELD & CLOSED ON OCTOBER 20, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the permit with conditions: (1) that the front setback be 12ft. 6in. and (2) that the 3rd story setback be 15ft.

LIST OF SPEAKERS: Julie Vail, co-appellant; George Vail, co-appellant; CJ Higley, attorney for permit holder.

(7) APPEAL NO. 04-122

BORIS SHAMIS, Appellant(s) vs. TAXI COMMISSION, Respondent	Appealing the suspension on September 1, 2004, of a Driver of Public Passenger Vehicle For Hire Permit. PERMIT NO. 055382. RESOLUTION NO. 2004-48. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the hearing to January 26, 2005 at the request of the parties.

ITEMS (8A) & (8B) SHALL BE HEARD TOGETHER:

(8A) APPEAL NO. 04-074

MICHAEL RABBITT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	141 Willard Street North. Appealing the denial on July 8, 2004 of Demolition Permit to Demolish a Building (2-unit building with 1,073sf of ground floor area). APPLICATION NO. 2003/05/22/5283. FOR HEARING TODAY.

(8B) APPEAL NO. 04-075

MICHAEL RABBITT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	141 Willard Street North. Appealing the denial on July 8, 2004 of Permit to Erect a Building (4-story, 2-unit building with 1,862sf of ground floor area). APPLICATION NO. 2003/05/22/5280S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Knox, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the hearing to December 8, 2004 at the request of the parties.

(9) APPEAL NO. 04-076

JOHN & LESLIE WOODWARD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	65 Caselli Avenue. Protesting the issuance on June 30, 2004, to Stewart Oaten, Permit to Alter a Building (on 2-unit building: replace existing deck, extend about 4'0" and new stairs). APPLICATION NO. 2004/06/30/7682. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (Commissioner Saunders absent) to continue the hearing to January 12, 2005.

LIST OF SPEAKERS: Leslie Woodward, co-appellant; Stewart Oaten, permit holder; Laurence Kornfield, DBI; Jonas Ionin, PD.

(10) APPEAL NO. 04-116

JOHN BRENNAN, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1420 Haight Street. Appealing a determination dated August 17, 2004, addressed to Matthew Brennan (Subject Property Owner Mehran Ismaili), that the notification and hearing for Conditional Use (CU) Motion No. 16593, which adds 2,300sf of retail space to the existing 3,300sf shoe store at the subject property, was properly performed, and thus it is not necessary to halt construction as authorized under CU Motion. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the hearing to January 12, 2005.

LIST OF SPEAKERS: Matthew Brennan, appellant.

(11) APPEAL NO. 04-117

BEVERLY CHILTON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	129 Ashton Avenue. Protesting the issuance on August 17, 2004, to Dan Devries & Chris Zupanovich, Site Permit to Alter a Building (on single-family house: horizontal addition to the rear). APPLICATION NO. 2003/09/03/3788S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Knox, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the subject permit.

LIST OF Speakers: Beverly Chilton, appellant; Douglas Fong, agent for permit holders; Jonas Ionin, PD.

(12) APPEAL NO. 04-118

AUDREY CARLSON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2368 Vallejo Street. Protesting the issuance on August 17, 2004, to Gina Best, Permit to Alter a Building (on 2-unit building: add bay windows instead of flat windows in two rooms; add a French door instead of window from the bedroom to the garden; revisions to Building Permit Application No(s). 2002/01/04/6319). APPLICATION NO. 2004/08/17/1803. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 2-2-1 (President Harrington and Commissioner Knox dissented, Commissioner Saunders absent) to revoke the permit with a finding that this permit violates the Board's ruling in appeal 03-141. Four votes being required to overturn or modify a departmental action, the subject permit was upheld with no conditions.

LIST OF SPEAKERS: Audrey Carlson, appellant; Gina Best, permit holder; Lincoln Chris, husband of permit holder; Scott Emblidge, attorney for appellant; Jonas Ionin, PD.

(13) **APPEAL NO. 04-119**

YIM HO & CHEUNG KAM LEUNG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL § 14 Parties: PING WONG & YU CHAN WONG	331 Girard Street. Appealing the denial on September 3, 2004, of Permit to Alter a Building (on single-family house: repair fire damage; interior alteration; add one story plus rear addition; and one more unit). APPLICATION NO. 2003/12/01/1345S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Knox, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the hearing to December 15, 2004 at the request of the appellants.

LIST OF SPEAKERS: Clement Cheung, Sec. 14 party; Ping Wong, Sec. 14 party; Jay Drake, attorney for appellants.

(14) **APPEAL NO. 04-121**

SQUIRE ALLIGATOR, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	407 Clayton Street. Protesting the issuance on August 20, 2004, to Ronald Romine, Permit to Alter a Building (on single-family house: comply with NOV No(s). 200449913 & 199817371; remove illegal workshop in garage-worktable, tools, cabinet and miscellaneous items). APPLICATION NO. 2004/08/20/2137. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the hearing to January 26, 2005 at the request of the parties.

There being no further business, President Harrington adjourned the meeting at 7:30pm.

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, DECEMBER 8, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

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(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST(S):

Subject property at 129 Westwood Drive. Letter from Jeffrey Livingston, appellant(s) / requestor(s), requesting rehearing of Appeal No(s). 04-108, 04-109 & 04-124, decided Nov. 10th, 2004. At that time, upon motion by Commissioner Fung, the Board voted 5-0 to uphold the **1st permit** (BPA No. 2004/08/03/0421; on single-family house, change existing 2nd floor study room and bedroom to storage per plan; under Building Permit Application No(s). 2004/06/02/5323) with the following condition(s): a) that a Notice of Special Restrictions be recorded on the land records by the permit holder which states that the use of the subject property is restricted to a single-family house; and b) that the stairway leading to the storage area not be open; to uphold the **2nd permit** (BPA No. 2004/07/01/7873; on single-family house, repair, roofing, reroofing; replace interior lath and plaster with GYPBD; repair windows; under Building Permit Application No(s). 2004/06/02/5323) with the following condition(s): a) that a Notice of Special Restrictions be recorded on the land records by the permit holder which states that the use of the subject property is restricted to a single-family house; and to uphold the **3rd permit** (BPA No. 2004/06/02/5323; on single-family house: add exercise room, family room, laundry and full bath at basement; relocate bathroom fixtures and walls; excavate basement floor and reinforce walls per plans) with the following condition(s): a) that a Notice of Special Restrictions be recorded on the land records by the permit holder which states that the use of the subject property is restricted to a single-family house; and b) that the laundry room be reduced in size. Permit Holder(s): John Zhou.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 193 Lower Terrace. Permit issued on March 12, 2004. Last day to appeal was March 29, 2004. Jurisdiction request received on November 18, 2004. Letter from Bob Wheeler, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2003/08/28/3384. Permit Holder(s): Mahmoud Larizadeh. Project: on 2-unit building, alteration to existing building; new garage; lift building to create garage.

(4) CONSENT ITEMS (DBI PENALTY):

With the consent of the Dept. of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) APPEAL NO. 04-123

LINDA STOCKDALE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1961 Hayes Street. Appeal for refund of penalty imposed on August 31, 2004, for work done without a permit (on 3-unit apartment building: replace existing rotten multi-level decks at rear per plans; work being completed in response to NOV No(s). 200448199). APPLICATION NO. 2004/05/18/4230. FOR HEARING TODAY.

(4B) APPEAL NO. 04-126

KEN LEE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1867 Donner Avenue. Appeal for refund of penalty imposed on September 1, 2004, for work done without a permit (on single-family house: remove 2nd unit per attached NOV at ground floor; rooms behind garage; new use of ground floor as storage and garage only; sheetrock walls). APPLICATION NO. 2004/08/18/1911. FOR HEARING TODAY.

(5) APPEAL NO. 04-081

LANE LOUIE, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	950 Grant Avenue. Protesting the issuance on July 2, 2004, to Elaine Chiu dba "Grand Palace", Sidewalk Display Merchandise Permit. PERMIT NO. 04D-265. PUBLIC HEARING HELD NOV. 10, 2004. FOR FURTHER CONSIDERATION TODAY.

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 04-074**

MICHAEL RABBITT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	141 Willard Street North. Appealing the denial on July 8, 2004 of Demolition Permit to Demolish a Building (2-unit building with 1,073sf of ground floor area). APPLICATION NO. 2003/05/22/5283. FOR HEARING TODAY.

(6B) **APPEAL NO. 04-075**

MICHAEL RABBITT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	141 Willard Street North. Appealing the denial on July 8, 2004 of Permit to Erect a Building (4-story, 2-unit building with 1,862sf of ground floor area). APPLICATION NO. 2003/05/22/5280S. FOR HEARING TODAY.

(7) **APPEAL NO. 04-077**

DEL CURTO PROPERTIES, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	540 Cole Street. Appealing the denial on July 14, 2004, of Permit to Alter a Building (correct the record to show R3/1 unit for rear building; to legalize existing unit). APPLICATION NO. 2004/01/12/3836. FOR HEARING TODAY.

(8) **APPEAL NO. 04-101**

PATRICIA VAUGHEY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2775 Filbert Street. Protesting the issuance on May 28, 2004, to Tina Bartlett, Permit to Alter a Building (on single-family house: install redwood fence as per plan around property, 10'-0" in height). APPLICATION NO. 2004/05/28/5113. JURISDICTION GRANTED JULY 28, 2004. FOR HEARING TODAY.

(9) **APPEAL NO. 04-110**

KERI EVILSIZOR, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	137-139 Cook Street. Protesting the issuance on August 4, 2004, to Joseph Tierney, Permit to Alter a Building (on 2-unit building: raise building to create new garage in existing basement; and add new 3rd floor unit). APPLICATION NO. 2002/06/07/8509S. FOR HEARING TODAY.

(10) **APPEAL NO. 04-128**

GEOFFREY GRATZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1 Federal Street. Protesting the issuance on September 2, 2004, to LNR Communities, Permit to Alter a Building (on 49-unit apartment building/office building: office expansion; ceiling and interior partition; mechanical/electrical under separate permit; no increase in office space). APPLICATION NO. 2004/09/02/3239. FOR HEARING TODAY.

(11) **APPEAL NO. 04-129**

RUBEN CORTEZ & JANNA PAARDEKOOPER, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	19 Elsie Street. Appealing a determination dated September 17, 2004, addressed to Charles St. George Holden, that the Notice of Special Restrictions (NSR No. E206507, recorded on Oct. 19, 1988) which requires that one parking space be provided at the subject property for the use of the property at 17 Elsie Street, is indeed valid, and that the only means of removing this NSR is through a parking variance for 17 Elsie Street. FOR HEARING TODAY.

(12) **APPEAL NO. 04-130**

HELENE deBAUBIGNY & JOHN GOLOB, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2763 Filbert Street. Protesting the issuance on September 7, 2004, to Lock & Irene Holmes, Permit to Alter a Building (on single-family house: revisions to Building Permit Application No(s). 2003/08/18/2357 and 2000/05/23/0798; cut-in roof; provide windows for roof access; and one skylight, flat at sloped roof). APPLICATION NO. 2004/09/07/3487. FOR HEARING TODAY.

(13) **APPEAL NO. 04-024**

JOHN ATWATER & DIANA NELSON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	3746 Jackson Street. Appealing a determination dated March 16, 2004, addressed to David Cincotta, that the proposed expansion, which is not within the front portion of the property where a height increase is permitted, and which, in any case, extends above the 35 foot absolute height limit, would not be allowed under Planning Code §§ 261(b)(1), 261(c), 261(c)(1), and 261(c)(2). PUBLIC HEARING HELD & CLOSED ON NOVEMBER 17, 2004. FOR FURTHER CONSIDERATION TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Permit holder's, Respondent's or Other Parties' Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 415-575-6880 if you have any questions concerning this agenda.

Date posted: **December 2nd, 2004**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
FRANK FUNG	**COMMISSIONER**
RANDALL KNOX	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, DECEMBER 8, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Frank Fung, Commissioner Sabrina Saunders, and Commissioner Randall Knox.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Jonas Ionin, Planning Department (PD); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

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(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST(S):

Subject property at 129 Westwood Drive. Letter from Jeffrey Livingston, appellant(s) / requestor(s), requesting rehearing of Appeal No(s). 04-108, 04-109 & 04-124, decided Nov. 10th, 2004. At that time, upon motion by Commissioner Fung, the Board voted 5-0 to uphold the **1st permit** (BPA No. 2004/08/03/0421; on single-family house, change existing 2nd floor study room and bedroom to storage per plan; under Building Permit Application No(s). 2004/06/02/5323) with the following condition(s): a) that a Notice of Special Restrictions be recorded on the land records by the permit holder which states that the use of the subject property is restricted to a single-family house; and b) that the stairway leading to the storage area not be open; to uphold the **2nd permit** (BPA No. 2004/07/01/7873; on single-family house, repair, roofing, reroofing; replace interior lath and plaster with GYPBD; repair windows; under Building Permit Application No(s). 2004/06/02/5323) with the following condition(s): a) that a Notice of Special Restrictions be recorded on the land records by the permit holder which states that the use of the subject property is restricted to a single-family house; and to uphold the **3rd permit** (BPA No. 2004/06/02/5323; on single-family house: add exercise room, family room, laundry and full bath at basement; relocate bathroom fixtures and walls; excavate basement floor and reinforce walls per plans) with the following condition(s): a) that a Notice of Special Restrictions be recorded on the land records by the permit holder which states that the use of the subject property is restricted to a single-family house; and b) that the laundry room be reduced in size. Permit Holder(s): John Zhou.

ACTION: Upon motion by Vice President Sugaya, the Board voted 5-0 to deny the Requests for Rehearing.

LIST OF SPEAKERS: Jeffrey Livingston, requestor/appellant; Walter Parsley, attorney for permit holder; Laurence Kornfield, DBI.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 193 Lower Terrace. Permit issued on March 12, 2004. Last day to appeal was March 29, 2004. Jurisdiction request received on November 18, 2004. Letter from Bob Wheeler, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2003/08/28/3384. Permit Holder(s): Mahmoud Larizadeh. Project: on 2-unit building, alteration to existing building; new garage; lift building to create garage.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to continue the hearing to December15, 2004.

LIST OF SPEAKERS: Bob Wheeler, requestor; Ahmad Larizadeh, agent for permit holder; Ed Sweeney, DBI; Jonas Ionin, PD.

PUBLIC COMMENT: (For Requestor) Michael Souter said that the permit holder hasn't respected the process. Edith Souter said the Permit Holder has filed multiple permit applications, that proper notice wasn't given to neighbors under Section 311, and that he hasn't respected the process. Gerry Kirwan read the letter from neighbors into the record. Louis Sacchetti said the project is not appropriate for the neighborhood.

(4) CONSENT ITEMS (DBI PENALTY):

With the consent of the Dept. of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) APPEAL NO. 04-123

LINDA STOCKDALE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1961 Hayes Street. Appeal for refund of penalty imposed on August 31, 2004, for work done without a permit (on 3-unit apartment building: replace existing rotten multi-level decks at rear per plans; work being completed in response to NOV No(s). 200448199). APPLICATION NO. 2004/05/18/4230. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-1 (Commissioner Fung dissented) to uphold the penalty.

LIST OF SPEAKERS: Laurence Kornfield, DBI; appellant did not appear.

(4B) **APPEAL NO. 04-126**

KEN LEE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1867 Donner Avenue. Appeal for refund of penalty imposed on September 1, 2004, for work done without a permit (on single-family house: remove 2nd unit per attached NOV at ground floor; rooms behind garage; new use of ground floor as storage and garage only; sheetrock walls). APPLICATION NO. 2004/08/18/1911. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to reduce the penalty to 2 times the regular fee.

LIST OF SPEAKERS: Laurence Kornfield, DBI; Ken Lee, appellant.

(5) **APPEAL NO. 04-081**

LANE LOUIE, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET USE & MAPPING, Respondent	950 Grant Avenue. Protesting the issuance on July 2, 2004, to Elaine Chiu dba “Grand Palace”, Sidewalk Display Merchandise Permit. PERMIT NO. 04D-265. PUBLIC HEARING HELD NOV. 10, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 3-2 (President Harrington and Commissioner Knox dissented) to uphold the permit.

LIST OF SPEAKERS: Seth Todd Huntington, DPW BSM; Lane Louie, appellant.

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 04-074**

MICHAEL RABBITT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	141 Willard Street North. Appealing the denial on July 8, 2004 of Demolition Permit to Demolish a Building (2-unit building with 1,073sf of ground floor area). APPLICATION NO. 2003/05/22/5283. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to overrule the denial of the demolition permit with a finding that a soundness report has been submitted which meets the 50% rule, and on condition that this demolition permit be held in abeyance until the permit for the replacement structure is approved.

(6B) **APPEAL NO. 04-075**

MICHAEL RABBITT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL	141 Willard Street North. Appealing the denial on July 8, 2004 of Permit to Erect a Building (4-story, 2-unit building with 1,862sf of ground floor area). APPLICATION NO. 2003/05/22/5280S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to continue the site permit case to January 26, 2005.

LIST OF SPEAKERS: Jonas Ionin, PD; Tony Pantaleoni, agent for appellant; Laurence Kornfield, DBI.

PUBLIC COMMENT: (For Planning Commission) Cheryl Duperrault described neighborhood opposition to the project, which is out of character and will destroy a quaint cottage. Marcy Bruins said that mistakes have been made in the neighborhood and they like small family houses. Caroline Massce said project will erode character of the neighborhood and will block her view of sunsets and treetops and that the neighborhood is fragile. (For Appellant) Mark Brennan asked that the project be approved because of the need for more housing since the City has the lowest percentage of home ownership in the nation. Joe O'Donoghue said the building is on its last legs and that the project got caught between changing ideologies of the Planning Commission.

(7) **APPEAL NO. 04-077**

DEL CURTO PROPERTIES, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL	540 Cole Street. Appealing the denial on July 14, 2004, of Permit to Alter a Building (correct the record to show R3/1 unit for rear building; to legalize existing unit). APPLICATION NO. 2004/01/12/3836. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-1 (President Harrington dissented) to uphold the denial.

LIST OF SPEAKERS: David Siena, agent for appellant; Laurence Kornfield, DBI; Jonas Ionin, PD.

PUBLIC COMMENT: (For PD) Mark Brennan said he opposes appeal because unit was added without permit. Matthew Brennan opposes appeal because owner didn't go through process and system. Joe O'Donoghue said appellant is very sophisticated as he is in the real estate business.

(8) **APPEAL NO. 04-101**

PATRICIA VAUGHEY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2775 Filbert Street. Protesting the issuance on May 28, 2004, to Tina Bartlett, Permit to Alter a Building (on single-family house: install redwood fence as per plan around property, 10'-0" in height). APPLICATION NO. 2004/05/28/5113. JURISDICTION GRANTED JULY 28, 2004. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to uphold the permit with the conditions as agreed to in the letters submitted at the hearing by Jeremy Paul (agent for permit holder).

LIST OF SPEAKERS: Patricia Vaughey, appellant; Jeremy Paul, agent for appellant; Laurence Kornfield, DBI; Francisco Cancini, for appellant.

(9) **APPEAL NO. 04-110**

KERI EVILSIZOR, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	137-139 Cook Street. Protesting the issuance on August 4, 2004, to Joseph Tierney, Permit to Alter a Building (on 2-unit building: raise building to create new garage in existing basement; and add new 3rd floor unit). APPLICATION NO. 2002/06/07/8509S. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 5-0 to reschedule the hearing to January 26, 2005.

SPEAKERS: None.

(10) **APPEAL NO. 04-128**

GEOFFREY GRATZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1 Federal Street. Protesting the issuance on September 2, 2004, to LNR Communities, Permit to Alter a Building (on 49-unit apartment building/office building: office expansion; ceiling and interior partition; mechanical/electrical under separate permit; no increase in office space). APPLICATION NO. 2004/09/02/3239. FOR HEARING TODAY.

ACTION: Appeal withdrawn by appellant.

(11) **APPEAL NO. 04-129**

RUBEN CORTEZ & JANNA PAARDEKOOPER, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	19 Elsie Street. Appealing a determination dated September 17, 2004, addressed to Charles St. George Holden, that the Notice of Special Restrictions (NSR No. E206507, recorded on Oct. 19, 1988) which requires that one parking space be provided at the subject property for the use of the property at 17 Elsie Street, is indeed valid, and that the only means of removing this NSR is through a parking variance for 17 Elsie Street. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 3-2 (President Harrington and Commissioner Knox dissented) to uphold the ZA determination.

LIST OF SPEAKERS: Jonas Ionin, PD; Laurnence Kornfield, DBI; Jeremy Paul, agent for appellant; and Kenneth Wachtel, attorney for subject property owner at 17 Elsie St.

(12) **APPEAL NO. 04-130**

HELENE deBAUBIGNY & JOHN GOLOB, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2763 Filbert Street. Protesting the issuance on September 7, 2004, to Lock & Irene Holmes, Permit to Alter a Building (on single-family house: revisions to Building Permit Application No(s). 2003/08/18/2357 and 2000/05/23/0798; cut-in roof; provide windows for roof access; and one skylight, flat at sloped roof). APPLICATION NO. 2004/09/07/3487. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to continue the hearing to January 12, 2005 with appropriately dimensioned drawings to be submitted to DBI staff.

LIST OF SPEAKERS: John Golob, co-appellant; Irene Holmes, permit holder; Laurence Kornfield, DBI; Dan Phipps, agent for permit holder.

(13) **APPEAL NO. 04-024**

JOHN ATWATER & DIANA NELSON, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	3746 Jackson Street. Appealing a determination dated March 16, 2004, addressed to David Cincotta, that the proposed expansion, which is not within the front portion of the property where a height increase is permitted, and which, in any case, extends above the 35 foot absolute height limit, would not be allowed under Planning Code §§ 261(b)(1), 261(c), 261(c)(1), and 261(c)(2). PUBLIC HEARING HELD & CLOSED ON NOVEMBER 17, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-1 (vice President Sugaya dissented) to overrule the Zoning Administrator's determination with adoption of findings as submitted by the appellants' attorney.

LIST OF SPEAKERS: David Cincotta, attorney for appellant; Jonas Ionin, Planning Department.

There being no further business, President Harrington adjourned the meeting at 9:50 p.m.

Robert H. Feldman

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, DECEMBER 15, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

/04

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12-10-04 A11:16 RCVD

(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST:

Subject property at 1170-1180 Green Street. Letter from Kathleen Courtney, agent for Russian Hill Community Association, appellant(s) / requestor(s), requesting rehearing of Appeal No(s). 04-070, decided on November 10, 2004. At that time, upon motion by Commissioner Fung, the Board voted 5-0 to uphold the subject permit on condition that the skylight not exceed 3 feet in height as measured from the finished elevation of the ceiling. Project: on 6-unit apartment building, expansion of building by addition of partial 3rd floor, renovation of 2nd floor, and conversion of some crawl space to automobile parking. Permit Holder(s): Jeffrey Horowitz.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 1290 Chestnut Street. Permit issued on September 8, 2004. Last day to appeal was September 23, 2004. Jurisdiction request received on November 29, 2004. Letter from Madeline Camisa, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/09/08/3605. Project: on an office building, convert office to laundry, and a small 4'6" X 8'0" addition (one-story addition on the NE corner). Permit Holder(s): Cheryl Chen, Shih Hsiang and Chiu-Hung To Chen. **Note:** Appeal No(s). 04-131, Sheppard vs. DBI, PDA, was filed by Douglas Sheppard against the subject permit on September 23, 2004 and then withdrawn by the appellant on Nov. 17, 2004.

(3C) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 193 Lower Terrace. Permit issued on March 12, 2004. Last day to appeal was March 29, 2004. Jurisdiction request received on November 18, 2004. Letter from Bob Wheeler, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2003/08/28/3384. Permit Holder(s): Mahmoud Larizadeh. Project: on 2-unit building, alteration to existing building; new garage; lift building to create garage. **Note:** Public hearing held on December 8, 2004. For further consideration today.

(4) APPEAL NO. V04-135

STEPHAN SMITH & ALEX AGBAY, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	23 Eureka Street. Protesting the granting on September 24, 2004, to Holger Menendez (Subject Property Owners Nancy & Patrick Hamill), Rear Yard Variance (proposal is to raise by 5'-6" the rear building that encroaches into the required rear yard to create habitable area at the ground floor). VARIANCE CASE NO. 2004.0070V. FOR HEARING TODAY.

(5) APPEAL NO. 04-035

CRYSTAL LEI, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	337 – 28th Avenue. Appealing the suspension on April 23, 2004, of Building Permit Application No(s). 2003/04/15/2287, 2003/07/15/9528, & 2003/05/27/5515. Reason(s) for suspension: the scope of work and building information described on the building permit applications and approved plans does not reflect the actual condition and legal use of the building. PUBLIC HEARING HELD AUG. 18, 2004. FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 04-068**

TERRANCE FORGETTE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	239 Greenwich Street. Appealing the suspension on June 15, 2004, of Building Permit Application No(s). 2003/10/06/6615. Reason(s) for suspension: the project (stair reconstruction) requires a Certificate of Appropriateness and thus was approved in error by the Planning Department. FOR HEARING TODAY.

(7) **APPEAL NO. 04-119**

YIM HO & CHEUNG KAM LEUNG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL § 14 Parties: PING WONG & YU CHAN WONG	331 Girard Street. Appealing the denial on September 3, 2004, of Permit to Alter a Building (on single-family house: repair fire damage; interior alteration; add one story plus rear addition; and one more unit). APPLICATION NO. 2003/12/01/1345S. FOR HEARING TODAY.

(8) **APPEAL NO. 04-120**

1776 SACRAMENTO STREET HOMEOWNER'S ASSOCIATION, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent Subj. Prop. Owner(s): AMERICAN BUDDHIST CULTURAL SOCIETY	1750 Van Ness Avenue. Appealing a determination dated August 30, 2004, addressed to Stephen Williams, that because Planning Code § 243(c)(8)(D) references use limits prescribed under § 243(c)(8)(A), and since § 243(c)(8)(A) specifically identifies "non-residential uses" to which the use limitation would be applicable, a use is considered nonconforming only when the ratio of specified residential uses to the specified non-residential uses is not met; and that those uses not specifically listed under "non-residential uses" and which do not meet the prescribed ratio would not be considered nonconforming uses provided they are permitted by the underlying zoning controls of the Van Ness Special Use District. FOR HEARING TODAY.

(9) **APPEAL NO. 04-132**

ALISON JOSEPH, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1244 – 1268 Sutter Street. Appealing a determination dated September 17, 2004, addressed to Alison Joseph, that the proposed office expansion at 1268 Sutter Street requires a Planning Code § 321 application for office space and a Conditional Use (CU) application for change of use above the ground story. FOR HEARING TODAY.

ITEMS (10A) & (10B) SHALL BE HEARD TOGETHER:

(10A) **APPEAL NO. 04-134**

ELLEN TSANG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2646-2648 Hyde Street. Protesting the issuance on September 22, 2004, to Phil Fernandez, Permit to Alter a Building (on 2-unit residential building: repair existing roof deck at rear; repair existing door at rear on ground floor; repair existing exterior stairs at rear). APPLICATION NO. 2004/09/22/4898. FOR HEARING TODAY.

(10B) **APPEAL NO. 04-144**

ELLEN TSANG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2646-2648 Hyde Street. Protesting the issuance on September 30, 2004, to Phil Fernandez, Permit to Alter a Building (on 2-unit residential building: modify Building Permit Application No. 2004/09/22/4898; resurface existing roof deck; deck surface only; remove existing membrane and tiles). APPLICATION NO. 2004/09/30/5627. FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Permit holder's, Respondent's or Other Parties' Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 415-575-6880 if you have any questions concerning this agenda.

Date posted: **December 9th, 2004.**

MEMBERS OF THE BOARD OF APPEALS

KATHLEEN HARRINGTON	**PRESIDENT**
HISASHI B. SUGAYA	**VICE PRESIDENT**
FRANK FUNG	**COMMISSIONER**
RANDALL KNOX	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 415-506-0430; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference. The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official

ecord and will be brought to the attention of the Board at the public hearing. For complete distribution to ll Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

ursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or evelopment permit, you may be limited to raising only those issues you or someone else raised at the ublic hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, r prior to, the public hearing.

alendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken ut of order to accommodate special needs. The Board urges all parties to be present in the hearing oom from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

he ringing of and use of cell phones, pagers and similar sound-producing electronic devices are rohibited at this meeting. Please be advised that the Chair may order the removal from the meeting oom of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-roducing electronic devices.

ACCESSIBILITY INFORMATION

merican sign language interpreters and/or sound enhancement system will be available upon request by ontacting Catherine Johnson at 575-6882 at least 48 hours prior to the hearing. Individuals with severe llergies, environmental illness, multiple chemical sensitivity or related disabilities should call the ccessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to ccommodate such people, attendees at public meetings are reminded that other attendees may be ensitive to various chemical-based products. Please help the City to accommodate these individuals. he closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde nd Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. ccessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega nd the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding UNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

overnment's duty is to serve the public, reaching its decisions in full view of the public. Commissions, oards, councils and other agencies of the City and County exist to conduct the people's business. This rdinance assures that deliberations are conducted before the people and that City operations are open to he people's review.

or more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco dministrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task orce: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett lace, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail onna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the unshine Task Force, the San Francisco Public Library, and on the City's website at ww.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Robert Feldman, Executive Secretary, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the office, and on the web site.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber. Please telephone 415-506-0430 for information.

Audiotapes of meetings may be obtained from the Board office. Please telephone 415-575-6880 for information.

Videotapes of meetings may be obtained from SFGTV, Channel 26. Please telephone 415-554-4188 for information.

Note: Each item on this agenda may include the following documents: 1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, DECEMBER 15, 2004

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Kathleen Harrington, Vice President Hisashi Sugaya, Commissioner Frank Fung (left meeting at 6:09pm), Commissioner Sabrina Saunders, and Commissioner Randall Knox.

Catharine Barnes, Deputy City Attorney, Office of the City Attorney (DCA OCA); Jonas Ionin, Planning Department (PD); Leo McFadden, Senior Building Inspector, Dept. of Building Inspection (DBI); Robert Feldman, Executive Secretary, and Victor Pacheco, Legal Assistant, for the Board; and Claudine Woeber, Official Court Reporter.

(1) PUBLIC COMMENT:

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

(3) ADDENDUM ITEMS:

(3A) REHEARING REQUEST:

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Subject property at 1170-1180 Green Street. Letter from Kathleen Courtney, agent for Russian Hill Community Association, appellant(s) / requestor(s), requesting rehearing of Appeal No(s). 04-070, decided on November 10, 2004. At that time, upon motion by Commissioner Fung, the Board voted 5-0 to uphold the subject permit on condition that the skylight not exceed 3 feet in height as measured from the finished elevation of the ceiling. Project: on 6-unit apartment building, expansion of building by addition of partial 3rd floor, renovation of 2nd floor, and conversion of some crawl space to automobile parking. Permit Holder(s): Jeffrey Horowitz.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to deny the Request for Rehearing.

LIST OF SPEAKERS: Kathleen Courtney, agent for appellant; Jeremy Paul, agent for permit holder; Jonas Ionin, PD.

PUBLIC COMMENT: (For Appellant) Michele Sudduth. John Bardis for Coalition of San Francisco Neighborhoods said that height discrepancy is a material fact that justified a rehearing.

(3B) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 1290 Chestnut Street. Permit issued on September 8, 2004. Last day to appeal was September 23, 2004. Jurisdiction request received on November 29, 2004. Letter from Madeline Camisa, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2004/09/08/3605. Project: on an office building, convert office to laundry, and a small 4'6" X 8'0" addition (one-story addition on the NE corner). Permit Holder(s): Cheryl Chen, Shih Hsiang and Chiu-Hung To Chen. **Note:** Appeal No(s). 04-131, Sheppard vs. DBI, PDA, was filed by Douglas Sheppard against the subject permit on September 23, 2004 and then withdrawn by the appellant on Nov. 17, 2004.

ACTION: Upon motion by Commissioner Knox, the Board voted 5-0 to deny jurisdiction.

LIST OF PARTIES: Madeline Camisa, requestor; Kung-Kay Chin, agent for permit holder.

(3C) JURISDICTION REQUEST TO ALLOW LATE FILING OF APPEAL:

Subject property at 193 Lower Terrace. Permit issued on March 12, 2004. Last day to appeal was March 29, 2004. Jurisdiction request received on November 18, 2004. Letter from Bob Wheeler, requestor(s), asking that the Board take jurisdiction over Building Permit Application No(s). 2003/08/28/3384. Permit Holder(s): Mahmoud Larizadeh. Project: on 2-unit building, alteration to existing building; new garage; lift building to create garage. **Note:** Public hearing held on December 8, 2004. For further consideration today.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-1 (Commissioner Saunders dissented) to grant jurisdiction.

LIST OF PARTIES: Jonas Ionin, PD.

(4) APPEAL NO. V04-135

STEPHAN SMITH & ALEX AGBAY, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	23 Eureka Street. Protesting the granting on September 24, 2004, to Holger Menendez (Subject Property Owners Nancy & Patrick Hamill), Rear Yard Variance (proposal is to raise by 5'-6" the rear building that encroaches into the required rear yard to create habitable area at the ground floor). VARIANCE CASE NO. 2004.0070V. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 5-0 to reschedule the hearing to January 19, 2005 & to list it first on the agenda.

LIST OF PARTIES: Jak Marquez, attorney for appellant; Nancy Hamill, co-variance holder.

(5) APPEAL NO. 04-035

CRYSTAL LEI, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	337 – 28th Avenue. Appealing the suspension on April 23, 2004, of Building Permit Application No(s). 2003/04/15/2287, 2003/07/15/9528, & 2003/05/27/5515. Reason(s) for suspension: the scope of work and building information described on the building permit applications and approved plans does not reflect the actual condition and legal use of the building. PUBLIC HEARING HELD AUG. 18, 2004. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to continue the hearing to January 19, 2005.

LIST OF PARTIES: Archie Clarizio, attorney for appellant; Leo McFadden, DBI; Jonas Ionin, PD.

(6) APPEAL NO. 04-068

TERRANCE FORGETTE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	239 Greenwich Street. Appealing the suspension on June 15, 2004, of Building Permit Application No(s). 2003/10/06/6615. Reason(s) for suspension: the project (stair reconstruction) requires a Certificate of Appropriateness and thus was approved in error by the Planning Department. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 5-0 to reschedule the hearing to January 26, 2005 at the request of the parties.

SPEAKERS: None.

(7) APPEAL NO. 04-119

YIM HO & CHEUNG KAM LEUNG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING COMMISSION DISAPPROVAL § 14 Parties: PING WONG & YU CHAN WONG	331 Girard Street. Appealing the denial on September 3, 2004, of Permit to Alter a Building (on single-family house: repair fire damage; interior alteration; add one story plus rear addition; and one more unit). APPLICATION NO. 2003/12/01/1345S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-0-1 (Commissioner Fung absent) to reschedule the hearing to January 19, 2005.

LIST OF PARTIES: Jay Drake, attorney for appellant; Clement Cheung, Section 14 party.

(8) APPEAL NO. 04-120

1776 SACRAMENTO STREET HOMEOWNER'S ASSOCIATION, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent Subj. Prop. Owner(s): AMERICAN BUDDHIST CULTURAL SOCIETY	1750 Van Ness Avenue. Appealing a determination dated August 30, 2004, addressed to Stephen Williams, that because Planning Code § 243(c)(8)(D) references use limits prescribed under § 243(c)(8)(A), and since § 243(c)(8)(A) specifically identifies "non-residential uses" to which the use limitation would be applicable, a use is considered nonconforming only when the ratio of specified residential uses to the specified non-residential uses is not met; and that those uses not specifically listed under "non-residential uses" and which do not meet the prescribed ratio would not be considered nonconforming uses provided they are permitted by the underlying zoning controls of the Van Ness Special Use District. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 5-0 to reschedule the hearing to January 19, 2005 at the request of the parties.

SPEAKERS: None.

(9) **APPEAL NO. 04-132**

ALISON JOSEPH, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1244 – 1268 Sutter Street. Appealing a determination dated September 17, 2004, addressed to Alison Joseph, that the proposed office expansion at 1268 Sutter Street requires a Planning Code § 321 application for office space and a Conditional Use (CU) application for change of use above the ground story. FOR HEARING TODAY.

ACTION: Upon motion by President Harrington, the Board voted 4-0-1 (Commissioner Fung absent) to continue the hearing to January 19, 2005, with the public hearing closed.

LIST OF PARTIES: Jonas Ionin, PD.

PUBLIC COMMENT: (Appellant) Erin Grucz for Heritage- changing use by CU will do irresponsible harm to the ballroom. Carol Antone Watts- the designing use is no threat to the former ballroom. Terrance Alan- to late night coalition it's important to preserve Avalon Ballroom. Connie Gibney read letter from adjacent owner. Precillia Redmund- design work better done in natural light.

ITEMS (10A) & (10B) SHALL BE HEARD TOGETHER:

(10A) **APPEAL NO. 04-134**

ELLEN TSANG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2646-2648 Hyde Street. Protesting the issuance on September 22, 2004, to Phil Fernandez, Permit to Alter a Building (on 2-unit residential building: repair existing roof deck at rear; repair existing door at rear on ground floor; repair existing exterior stairs at rear). APPLICATION NO. 2004/09/22/4898. FOR HEARING TODAY.

(10B) **APPEAL NO. 04-144**

ELLEN TSANG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2646-2648 Hyde Street. Protesting the issuance on September 30, 2004, to Phil Fernandez, Permit to Alter a Building (on 2-unit residential building: modify Building Permit Application No. 2004/09/22/4898; resurface existing roof deck; deck surface only; remove existing membrane and tiles). APPLICATION NO. 2004/09/30/5627. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Sugaya, the Board voted 4-0-1 (Commissioner Fung absent) to uphold both permits.

LIST OF PARTIES: Ellen Tsang, appellant; Jeremy Paul, agent for permit holder; Henry Glasser, agent for appellant; Leo McFadden, DBI.

PUBLIC COMMENT: (For Permit Holder) Craig Greenwood said the Permit holder is a good neighbor with well maintained property and the appellant has reported all neighbors to DBI. Billie Cayot agreed that Permit Holder is an excellent neighbor.

There being no further business, President Harrington adjourned the meeting at 7:27 p.m..

Robert H Feld

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430.

Board of Appeals

December 22, 2004 (No Meeting)

PUBLIC NOTICE

The Board of Appeals has not scheduled meetings for Dec. 22nd, 2004, Dec. 29th, 2004, and Jan. 5th, 2005. The next regular meeting is scheduled for **Wednesday, Jan. 12th, 2005, City Hall, Room 416, 5:00 p.m.**, One Dr. Carlton B. Goodlett Place.

Please feel free to call 575-6880 if there are any questions concerning this or any other appeal matter.

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FOR THE BOARD OF APPEALS

Robert H. Feldman, Executive Secretary

Date Posted: **Dec. 16th, 2004**

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